

NATIONAL COASTAL ZONE MANAGEMENT
ACT OF 1972

REPORT
OF THE
SENATE COMMITTEE ON COMMERCE
ON
S. 3507

(TOGETHER WITH INDIVIDUAL VIEWS)

TO ESTABLISH A NATIONAL POLICY AND DEVELOP A
NATIONAL PROGRAM FOR THE MANAGEMENT, BENE-
FICIAL USE, PROTECTION, AND DEVELOPMENT OF
THE LAND AND WATER RESOURCES OF THE NATION'S
COASTAL ZONES, AND FOR OTHER PURPOSES



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NATIONAL COASTAL ZONE MANAGEMENT ACT OF 1972

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MR. HOLLINGS, from the Committee on Commerce,
submitted the following

REPORT

Together with

INDIVIDUAL VIEWS

[To accompany S. 3507]

The Committee on Commerce, having considered various bills to establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zone, and for other purposes, reports favorably on original bill and recommends that the bill (S. 3507) do pass.

PURPOSE

S. 3507 has as its main purpose the encouragement and assistance of States in preparing and implementing management programs to preserve, protect, develop and whenever possible restore the resources of the coastal zone of the United States. The bill authorizes Federal grants-in-aid to coastal states to develop coastal zone management programs. Additionally, it authorizes grants to help coastal states implement these management programs once approved, and States would be aided in the acquisition and operation of estuarine sanctuaries. Through the system of providing grants-in-aid, the States are provided financial incentives to undertake the responsibility for setting up management programs in the coastal zone. There is no attempt to diminish state authority through federal preemption. The intent of this legislation is to enhance state authority by encouraging and assisting the states to assume planning and regulatory powers over their coastal zones.

NEED FOR NEW LEGISLATION

The United States is currently experiencing in its coastal zones a phenomenon prevalent in most coastal nations in the world. This phenomenon is well expressed in the recent report, "Man in the Living Environment":

About 70% of the earth's population lives within an easy day's travel of the coast, and many of the rest live on the lower reaches of rivers which empty into estuaries. Furthermore, coastal populations are increasing more rapidly than those of the continental interiors.

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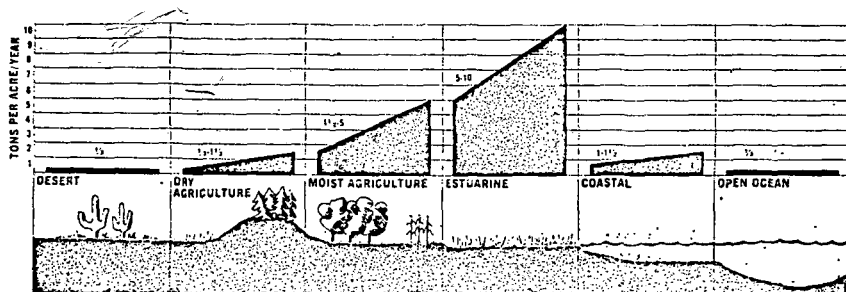
Settlement and industrialization of the coastal zone has already led to extensive degradation of highly productive estuaries and marshlands. For example, in the period 1922-1954 over one-quarter of the salt marshes in the U.S.A. were destroyed by filling, diking, draining or by constructing walls along the seaward marsh edge. In the following 10 years a further 10% of the remaining salt marsh between Maine and Delaware was destroyed. On the west coast of the U.S.A. the rate of destruction is almost certainly much greater, for the marsh areas and the estuaries are much smaller. ("Man in the Living Environment", Report of the Workshop on Global Ecological Problems, The Institute of Ecology, 1971, at p. 244).

The problems of the coastal zone are characterized by burgeoning populations congregating in ever larger urban systems, creating growing demands for commercial, residential, recreational, and other development, often at the expense of natural values that include some of the most productive areas found anywhere on earth. Already 53% of the population of the United States, some 106,000,000 people, live within those cities and counties within 50 miles of the coasts of the Atlantic and Pacific Oceans, the Gulf of Mexico, and the Great Lakes. Some estimates project that by the year 2000, 80% of our population may live in that same area, perhaps 225,000,000 people.

The space available for that increased population will not change significantly in the next thirty years. The demand for that limited space will increase dramatically. But there are only 88,600 miles of shoreline on our Atlantic, Pacific and Arctic coastlines, and another 11,000 miles of lakefront on the Great Lakes. And with that population will come increased demand for recreation. Over 30,000,000 people now turn to the coasts annually for swimming; 40,000,000 are projected by 1975. Sport fishing absorbs the interest of 11,000,000 people today in coastal areas; 16,000,000 are estimated by 1975. Pleasure boating today engages over 10,000,000; by 1975 this will be 14,000,000. By 1975 our park and recreation areas will be visited by twice as many as they are today; and by the year 2000, perhaps a tenfold increase.

Seventy percent of the present United States commercial fishing takes place in coastal waters. Coastal and estuarine waters and marshlands provide the nutrients, nursing areas, and spawning grounds for two-thirds of the world's entire fisheries harvest. And these areas may

be even more important for aquaculture in the future, for they are among the most productive regions of the world. Most estuarine areas equal or double the production rates of the best upland agricultural areas; from 15-30 times the productivity of the open oceans.



Comparative production rates among terrestrial and aquatic systems. Source: Redrawn from Teal and Teal, 1969, in "Man in the Living Environment", Report of the Workshop on Global Ecological Problems, The Institute of Ecology, 1971

Recognizing the importance of the coastal zone, the Commission on Marine Science, Engineering and Resources devoted its first substantive chapter of "Our Nation and the Sea" to management in this important area. The opening paragraphs of that chapter quickly focus on the basic needs and problems of coastal and estuarine zone management:

The coast of the United States is, in many respects, the Nation's most valuable geographic feature. It is at the juncture of the land and sea that the great part of this Nation's trade and industry takes place. The waters off the shore are among the most biologically productive regions of the Nation.

The uses of valuable coastal areas generate issues of intense State and local interest, but the effectiveness with which the resources of the coastal zone are used and protected often is a matter of national importance. Navigation and military uses of the coasts and waters offshore clearly are direct Federal responsibilities: economic development, recreation, and conservation interests are shared by the Federal Government and the States.

Rapidly intensifying use of coastal areas already has out-run the capabilities of local governments to plan their orderly development and to resolve conflicts. The division of responsibilities among the several levels of government is unclear, and the knowledge and procedures for formulating sound decisions are lacking. * * * ("Our Nation and the Sea", GPO 1969, at p. 49)

More recently the National Governors' Conference adopted a strong policy on coastal zone management, stating in part:

The coastal zone presents one of the most perplexing environmental management challenges. The thirty-one States which border on the oceans and the Great Lakes contain

seventy-five percent of our Nation's population. The pressures of population and economic development threaten to overwhelm the balanced and best use of the invaluable and irreplaceable coastal resources in natural, economic and aesthetic terms.

To resolve these pressures . . . an administrative and legal framework must be developed to promote balance among coastal activities based on scientific, economic, and social considerations. This would entail mediating the differences between conflicting uses and overlapping political jurisdiction.

* * * * *

The ultimate success of a coastal management program will depend on the effective cooperation of federal, state, regional, and local agencies * * *. ("Policy Positions of the National Governors' Conference, September 1971, at p. 34).

Despite all of this evidence, there still remains the question, "Why single out the coastal zone for special management attention?" The argument has been made that since the environmental system of the earth composes one eco-system, there should be only one policy and one system of management. But experience has shown us that in order to achieve adequate manageability, diverse systems are often needed. The fact is that the waters and narrow strip of land within the coastal zone is where the most critical demands, needs and problems presently exist. These demands will grow even more critical in the years ahead. There is an ever increasing commercial and recreational demand for utilization of wetlands, beaches and other prime areas in the coastal zone. As a result many of the biological organisms in the coastal zone are in extreme danger. These organisms are important, not only economically, but aesthetically, ecologically and scientifically as well. Man's utilization of the coastal zone may have a profound impact on our future well being. The Vice-Chairman of the National Advisory Committee on Oceans and Atmosphere, Dr. William Hargis, has stated:

"The coastal zone is the 'key' or gate to the oceans. Effective management in the coastal zone almost automatically assures control over quality of ocean environment and quality of resources." Dr. Hargis, who is also Director of the Virginia Institute of Marine Sciences and chairman of the Coastal States Organization of the Council of State Governments, made that comment during hearings by the Committee on Commerce (Coastal Zone Management, Serial No. 92-15 at page 262).

The coastal zone also represents a sharp contrast with general land utilization when viewed from a social aspect. Most people in the United States either live near the coast or on the coast and many of them are directly involved in this contest between public and private interests. Because of global transportation patterns and the availability of population, most of our great commercial and industrial development is taking place in or near the coastal zone. Additionally,

the coastal zone is a politically complex area, involving local, state, regional, national and international political interests.

At present, local governments do possess considerable authority in the coastal zone. However, frequently their jurisdiction does not extend far enough to deal fully and effectively with the land and water problems of that zone. Additionally, there have been numerous examples of commercial development within the coastal zone taking precedent over protection of the land and waters in the coastal zone. There has been a understandable need to create revenues to provide governmental services demanded by a growing population, thus creating pressures for commercial, residential and other economic development. Local government does have continuing authority and responsibility in the coastal zone. Local government needs financial, planning, political, and other assistance to avert damage to natural values in the coastal zone. Whenever local government has taken the initiative to prepare commercial plans and programs which fulfill the requirements of the Federal and coastal state zone management legislation, such local plans and programs should be allowed to continue to function under the state management program.

Until recently, local government has exercised most of the States' power to regulate land and water uses. But in the last few years a transition has been taking place, particularly as the States and the people have more clearly recognized the need for better management of the coastal zone. There have been many problems arising from the failure of the State and local governments to deal adequately with the pressures which call for economic development within the coastal zone at the expense of other values.

Some States have taken strong action. Hawaii undertook the first and most far reaching reform of land use regulation in 1961, placing statewide zoning power in its State Land Use Commission. The entire State is divided into four zones, urban, rural, agricultural and conservation. County agencies have considerable authority to delineate allowable uses within the boundaries of some zones subject to the general regulation of the Commission. The Commission has no enforcement arm of its own. Enforcement of use restrictions in all zones remains with the counties. Hawaii's action however is predominately land related and full consideration must be given to its surrounding marine environment. Similar situations exist in other states which have attempted to manage utilization of their land and shore areas. The American Law Institute has estimated that at least 90% of the current land use decisions being made by local governments have no major effects on state or national interests. Local governments should maintain control over a great majority of matters which are only of local concern. The range of problems that arise in the coastal zone, however, often calls for wider jurisdictional range.

It is the intent of the Committee to recognize the need for expanding state participation in the control of land and water use decisions in the coastal zone. However, the State is directed to draw on local, regional, state, federal and private interests in the planning and management process. The States may delegate to local governments, area-wide agencies, or interstate agencies some or all of the management responsibilities under this Act. The Committee has adopted the States

as the focal point for developing comprehensive plans and implementing management programs for the coastal zone. It is believed that the States do have the resources, administrative machinery enforcement powers, and constitutional authority on which to build a sound coastal zone management program. However, there may be instances where a city or group of local municipalities, or areawide agencies of interstate agencies may contain sufficient resources to be delegated this authority by the coastal State with the approval of the Secretary.

Coastal zone management must be considered in terms of the two distinct but related regimes of land and water. The law of land use management is highly developed. But, as to economic development and preservation of open space and other environment and conservation interests, management of underwater lands and their related waters is a much less developed area of law. But it is one in which the States have considerable constitutional authority. The proposed Act provides methods by which the state may comply with the provisions of this legislation, varying in degrees of state involvement and control. The several coastal States need assistance in assuming responsibility for management of the coastal zone. This bill is designed to provide just this kind of assistance. The Committee hopes that the States will move forthrightly to find a workable method for state, local, regional, federal and public involvement in regulation of non-federal land and water use within the coastal zone. In light of the competing demands and the urgent need to protect our coastal zone, the existing institutional framework is too diffuse in focus, neglected in importance and inadequate in the regulatory authority needed to do the job. The key to more effective use of the coastal zone in the future is introduction of management systems permitting conscious and informed choices among the various alternatives. The aim of this legislation is to assist in this very critical goal.

LEGISLATIVE HISTORY

The roots of this legislation extend at least to the 89th Congress, if not to previous Congresses. In the 89th Congress several years of effort culminated in the creation of the Commission on Marine Science, Engineering and Resources by the Act of June 17, 1966 (80 Stat. 203, 33 U.S.C. 1101). From the outset, the Commission recognized the overriding importance of the coastal zone, and designated one of its panels to prepare a report on the coastal zone. The Commission further highlighted the importance of the coastal zone by devoting the first substantive chapter of its report to "Management of the Coastal Zone."

In response to the Commission's recommendation for Federal coastal zone management legislation, Senator Magnuson introduced S. 2802 late in the first session of the 91st Congress. A hearing was held on the subject in December 1969. Subsequently, in the second session of the 91st Congress, other bills were introduced, including S. 3183, by Senator Boggs on behalf of the Administration, and S. 3460, by Senator Tydings.

S. 3183 derived from recommendations of the Department of the Interior in its National Estuarine Study, performed pursuant to the Estuary Protection Act, Public Law 90-454, reported by the

Committee on Commerce on July 17, 1968 (Senate Rep. No. 90-1419). The Subcommittee on Oceanography, chaired by Senator Hollings, held seven days of hearings from March through May 1970, at which 29 witnesses were heard. In addition, 55 articles, letters and statements were received by the Subcommittee and incorporated into the record of its hearings, which were published as Serial No. 91-59. The hearings and the statements provided several new ideas that were incorporated in a redrafted bill prepared by the Subcommittee. The Subcommittee also drew substantially upon ideas contained in S. 3183. The redrafted bill was considered by the Subcommittee and ordered reported favorably to the Committee on Commerce late in the 91st Congress, but too late for final consideration by the Committee before the Congress adjourned *sine die*.

Early in the 92d Congress, Senator Hollings introduced the Subcommittee-approved bill, which became S. 582. Shortly thereafter, Senator Tower introduced S. 638, which was also based on the Subcommittee bill, but modified to obviate some of the objections expressed by the Administration to the Subcommittee bill in the 91st Congress. Between Congresses, however, the Administration became convinced that more broadly based land use management legislation was both desirable and necessary. Its proposed National Land Use Policy Act of 1971 was introduced on behalf of Senator Jackson (by request) as S. 922.

During the first session of the 92d Congress, the Subcommittee on Oceans and Atmosphere, formerly the Subcommittee on Oceanography, held an additional three days of hearings during May 1971. Fifteen witnesses were heard and 39 new letters, articles and publications were received for the record, which was published by the Committee as Serial No. 92-15.

In the ensuing period, S. 582 was redrafted by the Subcommittee, incorporating additional ideas from S. 638 and S. 922, which the Subcommittee felt strengthened the bill. The Subcommittee also drew substantially upon ideas propounded by the Council on Environmental Quality, whose assistance was invaluable. The Subcommittee reported the bill favorably to the Committee on Commerce on August 4, 1971, and on September 30, 1971 the Committee ordered the bill reported favorably with amendments.

On March 14, 1972, at the request of Senator Hollings, S. 582 was recommitted to the Committee. Changes were made in the bill so as to clear up conflicting matters of jurisdiction, to place limitations on the coastal zone, and to broaden the participation of local governments, interstate agencies and areawide agencies in the preparation and operation of management programs. Additional changes were made to make the bill compatible with proposed land use policy legislation as proposed by the Administration. (See S. 992) Then, on Tuesday, April 11, 1972, the Committee ordered S. 3507 be reported favorably as an original bill.

DEPARTMENTAL OPINIONS

During the 91st Congress, testimony was received from the Honorable Walter J. Hickel, Secretary of the Interior, Mr. E. I. Dillon,

then Acting Executive Secretary of the National Council on Marine Resources and Engineering Development; and the Honorable Robert A. Frosch, Assistant Secretary of the Navy for Research and Development, representing their various departments and agencies. In addition, the Department of Commerce submitted comments on the redrafted bill.

During hearings in the 92d Congress, the Honorable Russell Train, Chairman of the Council on Environmental Quality; the Honorable Samuel Jackson, Assistant Secretary, Metropolitan Planning and Development, Department of Housing and Urban Development; the Honorable Harrison Loesch, Assistant Secretary, Public Land Management, Department of the Interior; and the Honorable Murray L. Weidenbaum, Assistant Secretary of the Treasury for Economic Policy were heard. Opinions have been submitted by the Comptroller General, the Department of the Interior, the Environmental Protection Agency, and are incorporated herein.

SECTION-BY-SECTION ANALYSIS

Section 301. Short title

The short title of the Act is the "National Coastal Zone Management Act of 1972".

Section 302. Congressional findings

This section asserts that there is a national interest in the effective management, beneficial use protection and development of the coastal zone. It is found that the coastal zone is important not only for present needs, but for future generations as well because of the area's broad natural, commercial, recreational, and industrial utilization. It is found that because of these increasing and competing demands upon the coastal zone, the area has lost many of its living resources and that the fish, shellfish and other living marine resources are extremely vulnerable to destruction by man's alterations. Because of the critical needs within the coastal zone, it is found that present coastal state and local institutions do not have sufficient authority to regulate utilization of the land and water within the coastal zone. Therefore, federal assistance is needed to aid the coastal states, local governments and other vitally affected interests in developing land and water use programs within the coastal zone.

Section 303. Declaration of policy

It is declared as policy to preserve, protect, develop and wherever possible restore the resources of the nation's coastal zone. This end shall be achieved through federal encouragement of management programs within the coastal zone which gives full consideration to ecological, cultural, historical and aesthetic values as well as the need for economic development. All federal agencies engaging in programs of the coastal zone have a duty and responsibility to cooperate and participate in accomplishing the purposes of the Act. The Congress also declares that the policy includes encouragement of the participation of the public, federal, state local governments, regional agencies and port authorities in the development of coastal zone management programs. The words "participate" and "participation" means more than mere cooperation or coordination in the preparation of management

programs. The committee intends to emphasize the need for positive participation by state agencies, local governments, regional and federal agencies in the preparation of the coastal zone programs.

Section 304. Definitions

This section defines the various terms used throughout the bill. Of particular importance is the definition of "Coastal zone". The coastal zone is meant to include the non-Federal coastal waters and the non-Federal land beneath the coastal waters, and the adjacent non-Federal shore lands including the waters therein and thereunder. This area includes an interface whose parts strongly effect one another. The zone also includes such transitional and intertidal as salt marshes, wetlands, and beaches. The outer limit of the zone is the outer limit of the territorial sea, beyond which the States have no clear authority to act. All federal agencies conducting or supporting activities in the coastal zone are required to administer their programs consistent with approved state management programs. However, such requirements do not convey, release or diminish any rights reserved or possessed by the Federal Government under the Submerged Lands Act or the Outer Continental Shelf Lands Act or extend state authority to land subject solely to the discretion of the Federal Government such as national parks, forests and wildlife refuges, Indian reservations and defense establishments. The inner boundary of the coastal zone is somewhat flexible. It extends inland only to the extent necessary to allow the management program to control shorelands whose use have a direct and significant impact upon the coastal water. The flexibility of this definition is intended to allow for adequate coordination with the proposed National Land Use Policy legislation (S. 992). No single geographic definition will satisfy the needs of all coastal States. Therefore the Committee expects at a minimum that beaches, salt marshes and coastal and intertidal areas such as sounds, harbors, bays, and lagoons will be included in the state's coastal zone. The intent of the Committee is that the zone chosen by the State should be sufficiently large to permit effective management programs for the diverse land and water uses of the area, but not so large as to encroach upon land use management.

"Coastal waters" include the Great Lakes, waters within the territorial jurisdictions of the United States, and their connecting waters, harbors, and estuary type areas, such as bays, shallows and marshes. In other areas, the coastal waters are defined as being adjacent to the shorelines and which contain a measurable tidal influence. This includes but is not necessarily limited to sounds, bays, lagoons, bayous, ponds and estuaries.

The "Coastal States" are defined as being those States of the U.S. which border on the Atlantic, Pacific or Arctic Ocean, the gulf of Mexico, Long Island Sound, or one or more of the Great Lakes, including Puerto Rico, the Virgin Islands, Guam and American Samoa.

The definition of "Estuary" means that part of a river or stream or other body of water which has an unimpaired connection with the open sea. Normally in an estuary, sea water is measurably diluted with fresh water derived from land drainage. The definition is meant to include estuary-type areas of the Great Lakes.

An "Estuarine sanctuary" is a research area. It may include part or all of an estuary, the adjoining transitional areas and the adjacent uplands which constitute a natural unit which scientists can study and observe over a period of time to make judgements on ecological relationships within the area.

"Management program" is the term to refer to the process by which a coastal state or other approved agency proposes (1) to manage land and water uses in the coastal zone so as to reduce or minimize a direct, significant and adverse affect upon those waters, including the development of criteria and of the governmental structure capable of implementing such a program. In adopting the term "Management program," the Committee seeks to convey the importance of a dynamic quality to the planning undertaken in this Act that permits adjustments as more knowledge is gained, as new technology develops, and as social aspirations are more clearly defined. The Committee does not intend to provide for management programs that are static but rather to create a mechanism for continuing review of coastal zone programs on a regular basis and to provide a framework for the allocation of resources that are available to carry out these programs.

"Secretary" is defined as the Secretary of Commerce, who has jurisdiction over the National Oceanic and Atmospheric Administration (NOAA). Administration of such a coastal zone management program by NOAA was originally recommended in the final report of the Commission on Marine Science, Engineering and Resources. After careful review the Committee believes that NOAA is the best qualified agency to undertake this complex task because of its capabilities for dealing with the interaction of land and water problems. Enumeration of the activities of the National Oceanic and Atmospheric Administration of the Department of Commerce in the coastal zone indicates a significant beginning capability to administer this legislation properly.

Section 305. Management program development grants

This section authorizes the Secretary to make annual grants to any coastal state to aid it in developing management programs for the land and water resources of the coastal zone. The grants shall not exceed 66 $\frac{2}{3}$ % of the cost of such program development in any one year and are limited to a period of three years. From testimony received it is estimated that a three year period will be adequate to arrive at such a program. No doubt, the cost of preparing management programs will vary from State to State. So the committee has provided a range of grants to be appropriated to carry out the purposes of the management program development section, that is, not greater than 10% nor less than 1% of the total amount appropriated for this purpose.

Section 305(b) requires inclusion of the following six elements in the management program.

- (1) An identification of the boundaries of the coastal zone of the portions of the coastal State subject to the management program;

- (2) A definition of what shall constitute permissible land and water uses within the coastal zone so as to prevent such uses which have a direct significant or adverse impact upon the coastal waters;

(3) An inventory and designation of areas of particular concern;

(4) An identification of the means by which the coastal State proposes to exert control over land and water uses within the coastal zone as to prevent such uses which have a direct, significant and adverse impact on the coastal waters;

(5) Broad guidelines on priority of uses within the coastal zone, and in particular, areas including those of lowest priority; and

(6) A description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of the areawide, coastal state and regional agencies in the management process.

Subsection (g) permits a coastal State to allocate a portion of its management program development grant to a local government, an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, 80 Stat. 1255) or to an interstate agency. The intent of this subsection is to acknowledge the important contributions to planning being made on the local and regional level. In addition, this subsection will permit regional economic development commissions, whose jurisdiction includes the coastal zones of certain States, to assist the coastal States in the planning. The committee does not intend at this point to limit what should be included in a management program. However, the following suggestions are made for guidance purposes:

(1) Tides and currents, including their effect upon beaches and other shorelines areas;

(2) Floods and flood damage prevention;

(3) Erosion, land stability, climatology, and meteorology;

(4) Ecology, including estuarine habitats of fish, shellfish, and wildlife;

(5) Recreation, including beaches, parks, wildlife preserves, sport fishing, swimming, and pleasure boating;

(6) Open space, including educational and natural preserves, scenic beauty, and public access to the coastline and coastal and estuarine areas, both visual and physical;

(7) Navigation;

(8) Commercial fishing;

(9) Present uses, known proposals for changes, and long-term requirements;

(10) Present ownerships, including administration of publicly owned properties;

(11) Present laws and regulations on land and water uses, and activities by all levels of government;

(12) Present population and future trends, including impact of population growth on the coastal and estuarine zone environment; and

(13) Such other factors as may be considered relevant.

Section 306. Administrative grants

This section authorizes the Secretary to make annual grants to any coastal State for not more than 66⅔% of the cost of administering the coastal State's management program, if he approves the program. The

grants are to be allocated to the States based on rules and regulations established by the Secretary. These rules must take into account the extent and nature of the shoreline involved and the area covered by the plan, the population of the area and other relevant factors. No annual administrative grant shall exceed 10% nor be less than 1% of the total amount appropriated. Before granting approval of the management program the Secretary must make seven specific findings:

(1) That the State has developed a management program for its coastal zone in accordance with the rules and regulations set up by the Secretary adequate to carry out the purposes of this Act. The management program must have been developed with the full opportunity of participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities and other interested parties, public and private.

(2) That the coastal State has coordinated with local, areawide and interstate plans developed by a local government, an interstate agency or an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 applicable to areas within the coastal zone existing on January 1 of the year in which the management program is submitted to the Secretary. Additionally, the State must have established an effective mechanism for continuing consultation and coordination between the management agency and the local governments, interstate agencies and areawide agencies within the coastal zone. This must be done to assure the full participation of such local governments and agencies in carrying out the purposes of this title.

(3) That the coastal State has held public hearings in the development of the management program.

(4) That the management program and any changes of the program have been reviewed and approved by the Governor of the coastal State.

(5) That the Governor of the coastal State has designated a single agency to receive and administer the funds for implementing the management program.

(6) That the coastal State is organized to implement the management program, and

(7) That the coastal State has the authority necessary to implement the program.

Section 306(d) further provides that before granting approval of the management program, the Secretary must find that the State does have the authority to manage the coastal zone in accordance with the management program. Such authority can be exercised by the State through a chosen agency or agencies, where more than one agency has authority to act, or through local governments or areawide agencies designated on interstate agencies under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. The authority must include power (1) to administer land and water use regulations, control development in order to ensure compliance with the program, and resolve conflicts among competing uses; and (2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program. The Committee

knows of no State that does not already have the authorities cited, either in the State government or in local government. Key to this subsection is the flexibility permitted to each State to determine the level of government through which such authority will be exercised.

Under section 306(e) the Secretary must find that the program has provided for any one or a combination of the following general techniques to control land and water uses:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance; (B) direct State land and water use planning and regulation; or (C) coastal State administrative review for consistency with the management program of all development plans, projects, or land and water regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

Additionally, the program must provide for a method of assuring that local land and water use regulations within the coastal zone will not unreasonably restrict or exclude land and water uses of regional benefit. Section 306(e) requires that State government exercise any one or a combination of the general techniques enumerated, without delegation to local, regional, or other forms of government. The three general techniques vary in the authority that the State would exercise. One or two States already provide for direct State land use planning and regulation; most States do not repose such authority in State government, but have delegated such authority to local governments. Where such authority is delegated to local governments, or where the State constitution provides that local government is to exercise such authority, the State may opt for either of the two remaining general techniques and still qualify for administrative grants under the provisions of this Act.

Section 306(f) permits a State, with approval of the Secretary, to allocate a portion of the administrative grants to local governments, interstate agencies, or to areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. However, such allocation is subject to the proviso that the State is not relieved of responsibility for ensuring that any funds so allocated are applied in furtherance of the State's approved management program.

Section 306(g) authorizes a State to amend its management program, subject to the procedures required under section 306(c). The Secretary must approve any amendment or modification before additional administrative grants are made to the State under the amended program.

Some States have already adopted programs for management of portions of their coastal zone. Others might find comprehensive planning for the entire coastal zone too great an undertaking even with the assistance provided under this legislation. Accordingly, section 306(h) provides that with the approval of the Secretary a State management program may be developed and adopted in segments so as to permit immediate attention to those areas which most urgently need

management programs. However, the State must provide for the ultimate coordination and unification of the various segments of the management program into a single program and for completion of the total unified program as soon as is reasonably practicable.

Section 307. Public hearings

All public hearings required by non-Federal entities under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public at least thirty days before the hearing. Broad-based public participation in the planning for the coastal and estuarine zone is basic to this legislation. Unfortunate experience with comparable provisions of other legislation prompts the Committee to provide explicit standards for notice and hearings. Those standards provide not only for adequate notice of proposed hearings, in order to provide ample time for preparation, but also require all relevant documents, materials, studies, and proposed actions to be available to the public for advance study and preparation.

Section 308. Rules and regulations

Provision for making rules and regulations to carry out the purposes of the Act also requires an opportunity for full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested public and private parties.

Section 309. Review of performance

Subsection (a) requires the Secretary to conduct a continuing review of the States' management programs and the performance of each State. The planning process and development of the management programs for each coastal State is essentially a continuing process, requiring continuing review. Procedures are required for program modification and updating. Connoted therein is an ongoing process reflective of changes in technology, of funding levels, of social expectations and understandings. The Committee is concerned that a static plan might be offered and then shelved, without recognizing the dynamics of the political process, the changing biophysical nature of the coastal and estuarine zone, and the institutional-management framework. Thus, the Committee has not only provided for a continuing process of review and updating of management programs by the States, but also for a continuing review by the Secretary.

(b) Where the Secretary determines that a State is failing to adhere to its approved coastal and estuarine zone management program and is not justified in deviating from that program, and where he has given notice of proposed termination and given an opportunity to present evidence on the proposed changes, he may terminate any financial assistance extended as an administrative grant under section 306. The Committee has considered and rejected several different proposals for penalties and sanctions for noncompliance with the terms of this legislation. Until experience dictates the need for greater sanctions than

termination of financial assistance under section 306, the Committee believes that this sanction will suffice.

Section 310. Records

Each grant recipient is required to keep prescribed records, including those which fully disclose the amount and disposition of grants funds, the total cost of the program supplied from other sources, and other records to ease effective audit. The section requires that the Secretary and the Comptroller General of the United States, or their representatives, shall have access to records of the grant recipient that are pertinent to the determination that funds are used in accordance with the legislation.

Section 311. National Coastal Resources Board

The Committee has created in section 311 (a) a new National Coastal Resources Board within the executive office of the President. Membership on this Board shall include the Vice President, who shall be chairman, the Secretary of State, the Secretary of the Navy, the Secretary of the Interior, the Secretary of Commerce, the Chairman of the Atomic Energy Committee, the Director of the National Science Foundation, the Secretary of Health, Education and Welfare and the Secretary of Transportation. This Board can be increased by the President at his discretion from other such agencies and by other such officials as he would find advisable. In the case of the absence of the Chairman, the President shall designate one of the members of the Board to preside over the meeting. Each member of the Board except those designated in subsection (b) may designate any officer of his department or agency, with the advice and consent of the Senate, to serve on the Board as his alternate in his unavoidable absence. The Board may employ a civilian executive secretary to head the staff of the Board. He shall be appointed by the President and shall receive compensation at a rate established by the President not to exceed that of level II of the federal executive salary schedule (\$42,500 per annum). The executive secretary under the direction of the Board is authorized to appoint and establish the compensation of such other personnel as may be needed including not more than seven persons who may be appointed without regard to civil service laws or chapter 51 and subchapter III of chapter 53 of title 5 and compensation is not to exceed the highest rate of grade 18 of the general schedule. These personnel may be appointed as may be necessary to perform such duties as may be described by the President.

The Board shall meet regularly at such times as the Chairman may direct and will have the following duties:

(1) Provide an effective coordination between programs of Federal agencies within the coastal zone.

(2) In the case of serious disagreement between any Federal agencies and a coastal State in the development of the program, the Board shall do its best to mediate the differences.

(3) Finally, the Board will provide a forum for appeals by any aggrieved areawide planning entity or unit of local government from

any decision or action of the Secretary or an areawide planning entity.

The Committee believes that there may be competition between State management programs and other activities of Federal, State, local and areawide governments in the management of non-federal land and water uses within the coastal zone. As a result of this competition there may be the need to allow a forum for those parties which may consider themselves aggrieved by the decisions of the State management program or the agency allocated by the State to operate the management program. Therefore, the Committee has created the Board to handle just this task. However, there is no intent in the Committee's action to establish a board which would have the final decision in the appeals process. It is the intent of the Committee that the Secretary of Commerce shall have the final authority to make decisions affecting management programs within the coastal zone. The broad representation provided for on the Board is aimed at allowing input from as many affected agencies as possible which might have ongoing activities within the coastal zone. It is a foregone conclusion that state management programs will affect both public and private utilization of land and water facilities within the coastal zone and that conflict will invariably arise. The Board hopefully will be able to mediate any such differences to the satisfaction of all parties involved. However, once again, in the case of a deadlock on an issue, the Secretary remains the final authority and court of last resort.

Section 312. Advisory Committee

The Secretary is directed to establish a fifteen-member Coastal Zone Management Advisory Committee to advise, consult with, and make recommendations to the Secretary on policy matters concerning the coastal zone. The Committee can serve an important function in extending Federal-State relationships and provide a coordinating mechanism for parties involved in coastal zone management. At the same time it can make recommendations and review federal policy. It may serve other functions as the Secretary may designate.

Section 313. Estuarine sanctuaries

The Secretary is authorized to make grants up to 50% of the costs of acquisition, development, and operation of estuarine sanctuaries. These sanctuaries would allow for the creation of field laboratories to gather data and make studies of the natural processes occurring in the estuaries. The Act authorizes \$6,000,000 for the initial year's operation of this section and limits the federal share to no more than \$2 million for any one estuarine acquisition. Federal administrative grant funds for implementing the State coastal zone management program under section 306 may not be used to provide the State share of the costs of the estuarine sanctuaries under this section.

The Committee envisions such sanctuaries as natural areas set aside primarily to provide scientists the opportunity to make baseline ecological measurements. Such measurements will be essential to many coastal and estuarine zone management decisions that will have to be made, as well as helping to predict the impact of human intervention on the natural ecology. These sanctuaries should not be chosen at ran-

dom, but should reflect regional differentiation and a variety of ecosystems so as to cover all significant natural variations.

Scientific research and ecological data can aid significantly in providing a rational basis for intelligent management of the coastal and estuarine zone. In addition, such sanctuaries could be used to monitor vital changes in the estuaries environment; or forecast possible deterioration from anticipated activities. Dr. Eugene Odum, Director of the Institute of Ecology, University of Georgia, likened estuarine sanctuaries to "pilot plants": "Scientists have to have 'pilot plants' to check out broad theories on a large environmental scale, just as an industrialist would not want to market a product directly from a laboratory; he would want to have a 'pilot plant' study first." (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59, at p. 1254).

The choice of estuarine sanctuaries entails many difficulties. However, where baseline ecological studies of natural conditions are desired, estuaries without much development, industry or habitation in the watershed areas would be desirable. Dr. Joel Hedgpeth of Oregon State University commented on some possible locations:

In southern California, for example, there is nothing left. In northern California, Tomales Bay, which might not fit some definitions, is an ideal candidate because of the ten years of study that has been carried out there and the circumstances that one entire shore (almost) is within control of the Point Reyes National Seashore. There are some interesting lagoons in northern California, just north of Eureka. In Oregon the most likely candidate seems to be Alesea Bay, but Netarts is also a good candidate. In Texas the Baffin Bay region of the Laguna Madre, and perhaps Copano Bay should be considered * * *. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59, at p. 1258.)

Dr. B. J. Copeland of North Carolina State University recommended that "sanctuaries should be established to enable studying estuaries of various ecological types and under various ambient conditions", and gave these examples:

- A. Oligohaline estuary—Pamlico River, N.C.
- B. Medium salinity plankton system—Chesapeake Bay, Md.
- C. Tropical Estuary—Kaneohe Bay, Hawaii.
- D. Oyster Reef, grass flat—Barataria Bay, La.
- E. Lagoon—Laguna Madre (Baffin Bay), Texas.
- F. West Coast plankton system—Yaquina Bay, Oregon. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59 at p. 1259.)

Dr. Copeland stated that these types represent most of the estuaries in the United States with the exception of minor ones on rocky coasts and those in the Arctic.

The Committee is convinced that sound coastal zone management must be based upon basic ecological considerations, and to this end are persuaded by the statement of Mr. Sydney Howe, President of the Conservation Foundation:

Traditionally, land-use planning is based largely on economic engineering, design and transportation concepts that consider natural processes only partially and indirectly. The science of ecology—"the systems analysis of nature"—is concerned with the impact of man upon natural processes and the total consequences, including the effects on man and his works.

* * * [N]ational policy for coastal management [should be] to give a priority to those uses which are compatible with the productive functioning of coastal natural systems and which cannot be provided elsewhere, and that where development is permitted it should be designed to minimize damage to these natural systems. Such decisions cannot be made without some understanding of these systems. Ecological knowledge, in short, should be a fundamental and initial basis of coastal zone planning and management.

Our own experience with ecologically based development planning already has shown that in many situations it is possible to minimize adverse impacts of development and maximize developmental benefits if one can understand the natural systems affected. This kind of understanding is particularly important in coastal situations where filling, dredging, discharging of wastes, mining, obstruction of tidal or current flows, or removing of vegetation may generate unforeseen destructive effects on highly desirable and useful functions and forms of life elsewhere in the system. (Committee on Commerce hearings, "Federal Oceanic and Atmospheric Organization," Part 2, Serial No. 91-59, at p. 972.)

Establishment of estuarine sanctuaries will provide information valuable in itself, as well as information on which sound coastal zone management decisions can be based.

Section 314. Interagency coordination and cooperation

Subsection (a) provides that unless the views of Federal agencies principally affected by a State's coastal zone management program are adequately considered, the Secretary is not authorized to approve that program. Where serious disagreement exists between a State and a Federal agency in the development of the management program, the Secretary is to seek to mediate the differences. Should such mediation on the part of the Secretary not result in success, then the parties are authorized to turn to the National Coastal Resources Board for further solution of the problems. Once again final authority for decisions on these matters rest in the purview of the Secretary and there is no intent here to diminish that authority.

Section 314(b)(1). This subsection requires all Federal agencies conducting or supporting activities in the coastal zone to administer their programs consistent with approved State management programs

except in cases of overriding national interest as determined by the President. In order to determine whether Federal projects and activities are consistent with approved management programs, the subsection requires that program coverage procedures provided for and regulations issued under the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, 80 Stat. 1255) and Title IV of the Intergovernmental Cooperation Act of 1968 (Public Law 90-577, 82 Stat. 1098) shall be applied.

Paragraph (2) of subsection (b) provides that Federal agencies shall not undertake any development project in the coastal zone which in the opinion of the State is inconsistent with the management program of that State unless the Secretary receives comments from the Federal agencies, the coastal State, and the affected local governments, and then finds that the project is consistent with the objectives of this Act.

The Committee does not intend to exempt Federal agencies automatically from the provisions of this Act. Inasmuch as Federal agencies are given a full opportunity to participate in the planning process, the Committee deems it essential that Federal agencies administer their programs, including developmental projects, consistent with the States' coastal zone management program. If not, the ordinary course for a State would be to file a complaint with the Secretary or, failing that, with the National Coastal Resources Board. Again, however, once the Secretary has received comments from the Federal agencies, the State, and the affected local governments, he shall make his own findings as to the consistency of the Federal developmental project with the State's management program.

Also, where the Secretary of Defense informs the Secretary that a developmental project is necessary in the interest of national security, the Committee intends that the Secretary will make an independent inquiry and finding, as to the need for the project and its relationship to the State management program. It is not sufficient, for the purposes of this Act, that the Secretary of Defense merely inform the Secretary that the developmental project is needed in the interest of national security. All reasonable efforts should be made by the Secretary to reconcile national security needs and the state management program in the case of such conflicts.

Paragraph (3) of subsection (b) provides that after final approval by the Secretary of a State's management program, any applicant for a Federal license or permit to conduct any new activity in the coastal zone shall provide in the license or permit application a certification that the proposed activities comply with the State's approved management program. Additionally, the applicant must give reasonable assurance that the activity will be conducted in a manner consistent with that program. The State is to establish procedures for public notice of such applications for certification. The State also must provide public hearings when appropriate. If a State agency fails to grant or deny a request for certification within six months from the time that request is received, the certification requirements shall be waived. No license or permit shall be granted until either the certifi-

cation has been obtained or waived, or the activity has been found by the Secretary to be consistent with the objectives of the legislation or necessary in the interest of national security. Such a finding cannot be made, however, unless the Secretary has received detailed comments from Federal and State agencies and the State has provided an opportunity for a public hearing. Thus, paragraph (3) of section (b) assures that before a federal license or permit is issued to conduct any new activity in the coastal zone, directly, significantly and adversely affecting the coastal waters, it will be reviewed by an appropriate State agency and a certification of compliance supplied. This is done as both an aid to federal licensing and permitting agencies and to insure the development projects are consistent with the coastal State's management program. Emphasis is placed upon "new" activity. This activity is after the date of enactment of the legislation. It will thus be appropriate to distinguish between new activities, such as the building of a new marina, or the dredging of a new channel, as opposed to the maintenance of existing facilities or activities begun prior to the enactment of the bill.

Section 314(c) provides that State and local governments submitting applications for Federal assistance under other federal programs affecting the coastal zone are required under this subsection to indicate the views of the appropriate coastal State or local agency as to the relationship of such activities to the State's approved management program. Federal agencies shall not approve proposed projects that are inconsistent with the management program, unless the Secretary finds that the project is consistent with the purposes of the title or necessary in the interest of national security. Those who seek Federal licenses or permits must receive certification that the proposed project is consistent with the State's approved management program. The same conditions exist for state and local governments seeking federal assistance from other sources. They must indicate also the consistency of their proposed project with the approved State program.

Section 314(d) is a standard clause disclaiming intent to diminish Federal or State authority in the fields affected by the Act; to change interstate agreements; to affect the authority of Federal officials; to affect existing laws applicable to Federal agencies; or to affect certain named international organizations.

Section 315. Annual report

The Secretary is required to submit an annual report to the President for transmittal to the Congress not later than November 1 of each year, covering the administration of the title for the preceding fiscal year. Among other things the report is to include the Secretary's recommendations for additional legislation to achieve the objectives of the title to enhance its effective operation. The report shall include, but not be limited to, the following subject areas:

- (1) There shall be an identification of the coastal State programs approved pursuant to this title during the preceding federal fiscal year and a description of those programs;

- (2) The Secretary shall list the coastal States which are participating in the provisions of this title and describe the status of

each program and what has been accomplished during the past fiscal year;

(3) The Secretary shall itemize the allotment of funds to the various coastal States and give a breakdown of the major projects and areas where these funds have been spent;

(4) The report also shall identify any coastal State programs which have been viewed and disapproved or with respect to which grants have been terminated under this title and an explanation of why the action was taken;

(5) A listing of the Federal development projects which the Secretary has reviewed under section 314 of this title and a summary of final action taken by the Secretary on each such project;

(6) A summary of the regulations issued by the Secretary or in effect during the preceding federal fiscal year; and

(7) A summary of outstanding problems arising in the administration of this title in order of priority.

Additionally, the Secretary may put in any other information as he deems appropriate. Throughout this Act, the State has been the major focal point for planning and managing the coastal zone of the United States. It is felt that States do have the authority with the approval of the Secretary to delegate to local, areawide or interstate agencies some of the planning and management functions under this act.

In theory this legislation could result in 35 substantially different management programs lacking the coordination of a national strategy for managing this invaluable resource in the coastal zone. The Committee believes that one of the important functions of the Secretary will be to develop and to co-ordinate this strategy working closely with the Coastal Zone Management Advisory Committee. Therefore, it is hoped that the Secretary will work closely with a wide range of diverse interests and interested groups both on the local and state level. The results of such work are to be incorporated in the annual report and will serve to assess current status and to guide future decisions.

Section 315. Appropriations authorization

There are authorized to be appropriated (1) \$12,000,000 for the fiscal year ending June 30, 1973, and such sums as may be necessary for the fiscal years thereafter prior to June 30, 1977, for management program development grants under section 305 of the Act, to remain available until expended; (2) not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for administrative grants under section 306, to remain available until expended; (3) not to exceed \$6,000,000 for the fiscal year ending June 30, 1973 for estuarine sanctuaries grants under section 313.

There are also authorized to be appropriated not to exceed \$1,500,000 annually for administrative expenses incident to administration of the title.

COST OF THE LEGISLATION

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that the

cost of S. 3507 will be as follows for the current fiscal year and succeeding five years:

[In millions]					
	1st year	2d year	3d year	4th year	5th year
Planning Grants (sec. 305).....	\$12	\$20	\$20	\$10	\$5
Admin. Grants (sec. 306).....		50	60	70	75
Estuarine sanctuaries (sec. 313).....	6				
Administration.....	1.5	1.5	1.5	1.5	1.5
Total.....	19.5	71.5	81.5	81.5	81.5

The Committee is not aware of any estimates of costs made by any Federal agency which are different from those made by the Committee.

CHANGES IN EXISTING LAW

There are no changes in existing law resulting from this legislation.

DEPARTMENTAL REPORTS

The following are reports from the various departments and agencies on the coastal and estuarine zone management bills (S. 582 and S. 638) on which the Committee held hearings in the 92d Congress, and on similar bills on which the Committee held hearings in the 91st Congress (S. 2802, S. 3183, and S. 3460). S. 3507 was considered in executive session and ordered reported as an original bill.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., April 20, 1971.

B-167694.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reference to your letter of February 26, 1971, requesting our views on S. 582 which would amend the Marine Resources and Engineering Development Act of 1966, as amended, to establish a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal and estuarine zones.

We have no special information as to the advantages or disadvantages of the proposed legislation and therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et seq.* Consequently, line 8 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 *et seq.*)."

Page 6, line 3, of the bill refers to "Sec. 306." This should be changed to "Sec. 305."

Page 19, line 4, of the bill refers to "Sec. 313." This should be changed to "Sec. 314" and the following section appropriately renumbered.

Section 304(b), page 5, defines coastal and estuarine zone as extending seaward to the outer limit of the United States territorial sea. The International Convention on the Continental Shelf recognizes the sovereign rights of the coastal nation to explore the shelf and exploit

its natural resources. Therefore, the committee may wish to consider redefining the coastal and estuarine zone to include the continental shelf which the Convention defines as "the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters, or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said areas" and "the seabed and subsoil of similar submarine areas adjacent to the coast of islands."

Section 304(c), page 5, defines "Coastal State" as including Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia. We assume it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Section 305(a), page 6, of the bill authorizes the Secretary of Commerce to make annual grants to any coastal State in the development of a management plan and program for the land and water resources of the coastal and estuarine zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This provision appears to preclude grants to States which have not yet started to develop a management plan and program. The committee may wish to consider language changes which would allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a), page 7, of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 66⅔ per centum of the costs of administering the coastal State's management plan and program. Section 306(c) (4), page 8, of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of administering the management plan and program or if these grants are solely intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(b), page 7, of the bill states that grants shall be allotted to the States with approved plans and programs based on regulations of the Secretary. This provision may not result in an equitable distribution of funds to each of the coastal States in that under section 306(i), page 12, a grant of an amount up to 15 percent of the total amount appropriated may be made to one coastal State. We believe that these grants should take into account the populations of such States, the size of the coastal or estuarine areas, and the respective financial needs of such States.

Section 307, page 12, authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 307 also states that the aggregate

principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140 million. We believe that the bill should further specify an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311, page 14, authorizes the Secretary to establish a coastal and estuarine zone management advisory committee composed of not more than 15 persons designated by the Secretary. The section does not (1) specify the term of service of the members, and (2) provide for the designation of a chairman. The committee may wish to provide for (1) the term or terms of service and (2) the selection of a chairman.

Section 313(a), page 15, should be clarified as it is now unclear whether it provides that States must adequately consider the views of principally affected Federal agencies prior to submitting their plans to the Secretary or whether the Secretary must adequately consider the views of principally affected Federal agencies prior to his approval of the States' plans. In either case, the committee may wish to set a specific time limit within which principally affected Federal agencies must submit their views.

The bill does not require a finding by the Secretary that the State's coastal and estuarine zone management plan and program be consistent with an applicable implementation plan under the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act of 1965, as amended. The committee may wish to add a section to the proposed bill to require such a finding.

Sincerely yours,

ROBERT F. KELLER,
Acting Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C. April 20, 1971.

B-167694.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: This is in reference to your letter of February 26, 1971, requesting our views on S. 638 which would amend the Marine Resources and Engineering Development Act of 1966, as amended, to assist the States in establishing coastal zone management plans and programs. The bill would amend the act by adding title III which would, if enacted, be cited as the "National Coastal Zone Management Act of 1971."

The bill involves matters of policy for determination by the Congress and therefore we have no recommendation with respect to its enactment. However, we have the following comments concerning specific provisions of the bill.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et seq.* Consequently, lines 8 and 9 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. *et seq.*)."

Section 304(c) defines "Coastal State" as including Puerto Rico, the Virgin Islands, Guam, American Samoa, and the District of Columbia. We assume that it is not intended to include the Trust Territory of the Pacific Islands and the Panama Canal Zone.

Section 305 of the bill authorizes the Secretary to make annual grants to any coastal State for the purpose of assisting in the development of a management plan and program for the land and water resources of the coastal zone, provided that no such grant shall be made under this subsection until the Secretary finds that the coastal State is adequately and expeditiously developing such management plan and program.

This language appears to preclude making grants to States which have not yet started to develop a management plan and program. The committee may wish to consider whether the bill should also allow States which have not started to develop a management plan and program to receive grants for the purpose of developing a management plan and program.

Section 306(a) of the bill authorizes the Secretary to make annual grants to any coastal State for not more than 50 per centum of the costs of administering the coastal State's management plan and program.

Section 306(c) (4) of this bill states that the Governor shall designate a single agency to receive and administer the grants for implementing the management plan and program. It is not clear whether the grants issued under this section are intended to cover the costs of monitoring the management plan and program or if these grants are intended as operating grants for the implementation of the management plan and program. The committee may wish to clarify this language.

Section 306(c) (2) of the bill requires the coastal State to make provisions for public notice and to hold public hearings on the development of the management plan and program. All required public hearings under this title must be announced at least 30 days before they take place and all relevant materials, documents and studies must be readily available to the public for study at least 30 days in advance of the actual hearing or hearings. The committee may wish to increase the number of days notice for public hearings in order that the public may have advance notice that relevant studies and documents are to be available at least 30 days in advance of the hearings. This would give the public the benefit of the full 30 days to examine the relevant documents.

Section 307 authorizes the Secretary to enter into agreements with coastal States to underwrite, by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects. We believe that the bill should prescribe the terms and conditions of the bond issues or loans that may be guaranteed by the Secretary and the rights of the Federal Government in the case of default. Section 307 also states that the aggregate principal amount of guaranteed bonds and loans outstanding at any time may not exceed \$140 million. We believe that the bill should further specify a maximum amount which the Secretary could guarantee for each bond issue or loan and an aggregate amount of such guaranteed bond issues or loans available to each State. We also note that the bill does not identify the source of the Federal funds that would be needed in the event of any defaults.

Section 311 authorizes and directs the Secretary to establish a coastal zone management advisory committee composed of not more than 15 persons designated by the Secretary. However, the bill does not (1) specify the term of service of the members, (2) include a provision for the designation of a chairman, and (3) include a provision that would require the Secretary to distribute membership to the advisory committee among various academic, business, governmental or other disciplines. We suggest that the committee consider inclusion of such provisions in the bill.

Section 312(a) of the bill states that the Secretary shall not approve the management plan and program submitted by the State unless the views of Federal agencies principally affected by such plan and program have been adequately considered. The bill does not, however, specify the time period within which the Federal agencies are to submit their views. The committee may wish to set a specific time limit for Federal agencies to consider a coastal State's management plan and program.

This bill does not require a finding by the Secretary that the State's coastal zone management plan and program be consistent with an applicable implementation plan under the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, and the Solid Waste Disposal Act of 1965, as amended. The committee may wish to add a section to the bill for this purpose.

The bill does not provide for the segmented development and adoption of States' management plans and programs and appears to require that only a completed comprehensive plan and program shall be submitted to the Secretary. Such a requirement might tend to impede the giving of immediate attention by States to the more urgent needs of particular coastal zone areas. As further encouragement to the coastal States to undertake the preparation and implementation of plans and programs, the committee may wish to add a provision to the bill to allow the States, with the approval of the Secretary, to develop and adopt a management plan and program in segments, provided that (1) the State adequately allows for the ultimate coordination of the various segments into a single unified plan and program and (2) such unified plan and program be completed as soon as is reasonably practicable, but within specified time limits.

On page 1, line 10, "titles" should be "title."

In section 306(c) (6) the reference to subsection "(g)" should be to subsection "(f)." Subsection "(h)" should be changed to subsection "(g)."

On page 11, "REVIEW AND PERFORMANCE" should be "REVIEW OF PERFORMANCE."

On page 11, line 22, "aproved" should be "approved."

On page 13, line 6, "exceediing" should be "exceeding."

On page 15, line 15, "costal" should be "coastal."

The reference to section "313" in section 313(a) (5) should be to section "312."

Sincerely yours,

ROBERT F. KELLER,
Acting Comptroller General of the United States.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 4, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your recent request for our comment on S. 582 and S. 638, similar bills to assist the States in establishing coastal zone management plans and programs. We offer comment as well on those provisions of S. 632 and S. 992, pertaining to the establishment of a national land use policy, which merit discussion in this context.

Because we recognize a real and urgent need for comprehensive land use planning, and because it now appears that the States are prepared to move toward this objective, we recommend the enactment of S. 992 in lieu of S. 582 or S. 638.

S. 582 and S. 638 would both amend the Marine Resources and Engineering Development Act of 1966 (33 U.S.C. 1101 *et seq.*) by adding a new Title III, the "National Coastal (and Estuarine) Zone Management Act of 1971". Consistent with a Congressional declaration that there is a national interest in the effective management, beneficial use, protection and development of the Nation's coastal zone, the Secretary of Commerce would be authorized to assist coastal States in their development and administration of an approved management plan and program. No such program could be approved without a finding by the Secretary that the coastal State has legal authority and institutional organization adequate for the management of its coastal zone. S. 582 would authorize annual grants not to exceed 66⅔% of a State's costs in developing its management program, provided that no single grant exceeds \$600,000, and a like percentage for costs of administering the program. S. 638 would establish the Federal share at 50%, and limit single development grants to \$200,000.

Both bills would authorize a program of bond and loan guaranties to facilitate land acquisition, land and water development, and restoration projects, provided that the aggregate principal amount of guaranteed bonds and loans never exceeds \$140 million. In addition to these general provisions, S. 582 would authorize cost-sharing for the acquisition, development and operation of not more than 15 estuarine sanctuaries. The Federal share of the cost for each such sanctuary could not exceed \$2 million.

As the result of two studies conducted by this Department and the Stratton Commission report, this Administration recommended that the 91st Congress enact legislation similar in concept to S. 582 and S. 638. We believed then, as we believe now, that the finite resources of our coastal and estuarine areas are threatened by population growth and economic development. At the Federal level, this Department had already been directed by the Estuary Protection Act of 1968 (82 Stat. 625, 16 U.S.C. 1221 *et seq.*) to conduct a study and inventory of the Nation's estuaries. As we reported to the Subcommittee on Oceanography a year ago, it was a conclusion of our study and others that

effective management of land and water resources could best be promoted by encouraging the States to accept a broadened responsibility for land use planning and management.

In its First Annual Report, the Council on Environmental Quality last August recognized "a need to begin shaping a national land use policy". In February of this year, the President urged that we "reform the institutional framework in which land use decisions are made", and recommended enactment of a proposed "National Land Use Policy Act of 1971", now pending before the Senate as S. 992. It is the President's proposal that \$20 million be authorized in each of the next five years to assist the States in establishing methods for protecting lands, including the coastal zone and estuaries, of critical environmental concern, methods for controlling large-scale development, and improving use of land around key facilities and new communities. "This proposal", the President said, "will replace and expand my proposal submitted to the last Congress for coastal zone management, while still giving priority attention to this area of the country which is especially sensitive to development pressures".

Specifically, S. 992 would authorize a two-phase program of grants to be administered by the Secretary of the Interior. In that cost-sharing grants would be awarded both for program development and for program management, S. 992 is similar to S. 582 and S. 638. The Administration proposal differs from S. 582 and S. 638, however, with respect to the scope of a State's planning activity and, indeed the number of States eligible for assistance. To assure that coastal zone and estuarine management receive the priority attention of coastal States, S. 992 would identify the coastal zones and estuaries as "areas of critical environmental concern" and require that a State's land use program include a method for inventorying and designating such areas. Further the Secretary would be authorized to make grants for program management only if State laws affecting land use in the coastal zone and estuaries take into account (1) the aesthetic and ecological values of wetlands for wildlife habitat, food production sources for aquatic life, recreation, sedimentation control, and shoreland storm protection and (2) the susceptibility of wetlands to permanent destruction through draining, dredging, and filling, and the need to restrict such activities. Most important, perhaps, funds for program development and management would be allocated to the States under regulations which must take into account the nature and extent of coastal zones and estuaries. While S. 632 also anticipates the initiation of national land uses planning through assistance to the States in their development of appropriate legal and institutional implements, it would not provide emphasis or priority for protection of the coastal zone and estuaries.

Of the manmade threats to coastal environments described by the Council on Environmental Quality in its First Annual Report, most have their origin in heavily populated land areas at or near the water's edge. But others can be traced further inland, where eventual impact upon the coastal environment is not so easily recognized. Thus, while pressures become most intense at the point where land meets water, many cannot be alleviated without truly comprehensive planning. This fact, and the related absence of any precise geographic defi-

dition for the coastal zone, lies behind the integrated approach embodied in S. 992. It may be noted that several States, coastal and inland, have already expressed a commitment to this concept. We urge that the Congress and your Committee, so effective in its concern for sound management of the coastal zone, join in this initiative to encourage planning for effective management of all the Nation's lands and waters.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HARRISON LOESCH,
Assistant Secretary of the Interior.

ENVIRONMENTAL PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., June 1, 1971.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for our agency's comments on S. 582 and S. 638, bills to provide for a national program of assistance to the States in coastal zone management programs.

These bills would authorize the Secretary of Commerce to award grants to coastal States for the development of management plans and programs for the land and water resources of the coastal zone. Such grants would not exceed 66 $\frac{2}{3}$ % of the planning costs (S. 582) or 50% of such costs (S. 638). If the Secretary found that a plan was consistent with the purposes of the Act to balance development and protection of the natural environment; that provision for public notice and hearings on the plan and program had been made; that the plan and program had been reviewed and approved by the Governor; that a single agency would administer and implement the management plan and program; and that the State had the necessary authority to implement the program, including controls over public and private development, he would be authorized to make annual grants for the costs of administering the program, with the same maximum percentages as planning grants. S. 582 also requires minimum grants of at least one percent of costs.

With the Secretary's approval, States would be authorized to develop plans in segments so as to focus attention on problem areas, and to revise plans to meet changed conditions. Grants could be terminated if the Secretary determined that a State was failing to implement its plan and program.

Additional provisions would require the Secretary, before approving programs, to consult with Federal agencies principally involved. Federal agencies conducting or supporting activities in the coastal zone would be required to "seek to make such activities consistent with the approved State management plan and program for the area." Federal development activities in the coastal zone would be prohibited

if the coastal State deemed such activities inconsistent with a management plan unless the Secretary found such project consistent with the objectives of the bill, or in cases where the Secretary of Defense determines that the project is necessary in the interests of national security. Applicants for Federal licenses or permits to conduct any activity in the coastal zone would be required to obtain a certification from the appropriate State agency that the proposed activity was consistent with the coastal zone management plan and program.

The Secretary would be required to submit an annual report to the President for transmittal to the Congress on the administration of the Act.

S. 582 would also authorize the establishment of "estuarine sanctuaries" for the purpose of studies of natural and human processes occurring within the coastal zone, and would provide for grants by the Secretary of up to 50% of the costs of acquisition, development, and operation of such sanctuaries.

We recommend that these bills not be enacted, and that the Congress instead give favorable consideration to S. 992, the Administration's proposed "National Land Use Policy Act of 1971."

The "National Estuarine Pollution Study," which was developed for the Secretary of the Interior by the Federal Water Quality Administration, now a component of EPA, concluded that urbanization and industrialization, combined with unplanned development in the estuarine zone, have resulted in severe damage to the estuarine ecosystem. In addition, the "National Estuary Study," developed for the Secretary by the Fish and Wildlife Service, identified the need for a new thrust on the side of natural and aesthetic values in the Nation's estuarine areas. Clearly, we need to ensure that environmental values are adequately protected in such areas. In this connection, however, we are aware that land-use planning can affect all areas, not simply estuarine areas, and that adequate planning for preservation of estuarine and coastal areas can only be effective if the full range of alternatives to development in such areas can be considered. In other words, estuarine and coastal zone planning must be considered within the larger context of land-use planning State-wide.

S. 992 would authorize the Secretary of the Interior to make grants of up to 50% of cost to assist the States in developing and managing land use programs. Programs would be required to include methods for inventorying and exercising control over the use of land within areas of critical environmental concern, including coastal zones and estuaries. States would also be required to develop a system of controls or regulations to ensure compliance with applicable environmental standards and implementation plans.

Accordingly, we favor the approach embodied in S. 992, which incorporates provisions for the protection of the coastal and estuarine areas into its more comprehensive scheme. At the same time, we recognize that the coastal zone is an area of special concern, where prompt and effective action is required. Heavy pressures for further development, coupled with the fragility of coastal and estuarine areas, make it imperative that we move immediately to protect these areas. The system authorized by S. 992 will permit a high priority for coastal zone planning within its larger context of land use planning and programs. We therefore urge prompt Congressional approval of S. 992.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM D. RUCKELSHAUS,
Administrator.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., September 25, 1969.

B-167694.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate.

DEAR MR. CHAIRMAN: Reference is made to your letter of August 11, 1969, requesting our comments on S. 2802.

The bill would amend Public Law 89-454, as amended (33 U.S.C. 1101 *et seq.*), by adding thereto a new title III which would provide financial assistance to coastal authorities for establishing and implementing coastal management programs, and a new title IV which would provide for a special fund in the Treasury to be known as the "Marine Resources Fund."

We have no special information concerning the desirability of the proposed legislation and accordingly, we make no recommendation as to the merits of the bill. However, we offer the following comments for your consideration.

Sections 304(a) and 305(a) and (b) authorize the Council to make grants to coastal authorities for the purpose of developing a longrange master plan and implementing a development program, and to enter into agreements with coastal authorities to underwrite by guaranty thereof, bond issues or loans for the purpose of land acquisition or land and water development and restoration projects.

The proposed legislation contains no criteria as to when or under what circumstances each type of financial assistance should be utilized. The Congress may wish to consider the advisability of including criteria which would provide that grants be made only in those instances where a finding has been made by the Council that the applicant for financial assistance does not have sufficient financial resources to permit the undertaking of a project with bond or loan financing. Also, we note that section 305(b) does not specifically state whether payments on defaulted bonds or loans are to be made from the Marine Resources Fund or from funds otherwise appropriated.

Section 312(a) contains what appears to be an unrealistic requirement for a report to the Congress not later than January 1 of each year on the administration of the title for the preceding calendar year. This requirement would provide only one day to finalize and issue a report on the preceding year's activities.

The act which the bill proposes to amend was approved June 17, 1966, and is codified in 33 U.S.C. 1101 *et seq.* Consequently, line 8 on page 1 of the bill should be changed to read "approved June 17, 1966, as amended (33 U.S.C. 1101 *et seq.*)"

The word "cosal" appearing in line 16 on page 8 of the bill should be changed to "coastal."

Sincerely yours,

ROBERT F. KELLER,
(For the Comptroller General of the United States.)

FEDERAL MARITIME COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., March 12, 1970.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of March 2, 1970, for the views of the Federal Maritime Commission with respect to S. 3460, a bill

To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs.

Inasmuch as the bill does not affect the responsibilities or jurisdiction of the Commission, we express no views as to its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

HELEN DELICH BENTLEY,
Chairman.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C. March 30, 1970.

B-167694.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U. S. Senate.

DEAR MR. CHAIRMAN: This is in reference to your letter of March 2, 1970, requesting our views on S. 3460, entitled: "A BILL To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs."

We have no special information as to the advantages or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following comments concerning specific provisions of the bill.

The bill calls for all Federal agencies to coordinate their activities in the coastal zone with the coastal States. (Section 303, page 4, lines 16-18.) We suggest that the extent of this coordination may not be sufficient since the activities undertaken by other (noncoastal) States affects the waters draining into the coastal States. The committee may wish to consider the possibility that entire river (or lake) basin coordination may be desirable.

The bill provides for a Federal agency (The National Council on Marine Resources and Engineering Development) to make grants to State agencies (coastal authorities) to assist them in developing a long-range master plan and implementing a development program based upon such master plan. If the coastal authorities borrow money

and issue bonds for the purpose of land acquisition or land and water development and restoration projects, the borrowings and bonds may be guaranteed by the Federal agency. (Section 305(a) page 6.)

We believe that the bill should prescribe the terms and conditions of the borrowings and bonds that may be guaranteed by the Federal agency and the rights of the Federal Government in the case of default. We believe also that the bill should specify the extent to which such borrowings and bonds may be guaranteed by the Federal agency.

Also, in order to effect more comprehensive master planning by the coastal authorities, we suggest for your consideration the following change at page 7, line 19:

* * * authority shall examine the land *and water* use regulations. * * *

Similarly, regarding page 8, line 5, we suggest the following change:

* * * shall examine to the extent possible land *and water* use plans. * * *

Also, regarding page 8, line 11, we suggest the following change:

* * * such master plan shall include studies, *analysis*, conclusions, and explanatory diagrams. * * *

The bill provides for submission by the Federal agency of an annual report to the President for transmittal to the Congress not later than January 1 of each year covering administration during the preceding calendar year. (Section 315(a), page 17.) We suggest April 1 as being a more practicable report due date.

Page 2, line 5, contains the reference "16 U.S.C. 1121" which should be "33 U.S.C. 1101.

Page 8, line 13, contains the word "popoulation" which should be corrected to "population."

Page 9, line 20, contains the word "have" which apparently should be "has."

Also page 19, line 5, contains the word "(z)" which should be "(a))."

Sincerely yours,

ROBERT F. KELLER,
Assistant Comptroller General of the United States.

DEPARTMENT OF TRANSPORTATION,
NATIONAL TRANSPORTATION SAFETY BOARD,
OFFICE OF THE CHAIRMAN,
Washington, D.C. April 13, 1970.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: Recently you requested our comments regarding S. 3460, a bill "To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs."

We find that this legislative proposal does not involve any aspect of transportation safety under National Transportation Safety Board jurisdiction. Accordingly, we do not have any helpful comments to offer.

Sincerely yours,

OSCAR M. LAUREL,
Acting Chairman.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 16, 1970.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for the Department's view on S. 2802, a bill "To assist the States in establishing coastal zone management programs."

Recently, the Department transmitted to the President of the Senate and the Speaker of the House a proposed bill "To provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone." The proposed bill was transmitted with, and would implement, the report of the National Estuarine Pollution Study. We recommend the enactment of our proposed bill, which is pending in the Senate as S. 3183, in lieu of S. 2802.

S. 2802 would extend the expiration date of the National Council on Marine Resources and Engineering Development from June 30, 1970 to June 30, 1975 and authorize the Council to provide financial assistance to the States in establishing coastal zone management programs. Such assistance would include grants covering up to 50 percent of the costs of formulating and implementing long-range master plans for the balanced development of the natural, commercial, industrial, recreational, and esthetic resources of the defined coastal zone area (generally land, bays, estuaries, and waters within three miles of the United States Coast). It would also include a guaranty of bond issues or loans for land acquisitions, land and water development, and restoration projects.

A special Marine Resources Fund would receive \$75 million annually, to be derived from revenues obtained under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 *et seq.*), to finance such grants and guaranties. All Federal agencies conducting or supporting research or other activities in a coastal zone would be required to make their activities consistent with any applicable State or interstate coastal planning and development program. In addition, Federal agencies would be prohibited from undertaking any development project in a coastal zone which the responsible State or interstate agency deemed to be inconsistent with such planning and development program unless the Council found such project, on balance, to be consistent with the general objectives of the bill. Conversely, the Council could reject a Federal development project that had been approved by the appropriate state agency.

This Department has participated actively in the efforts of the Marine Commission and the Marine Council which are directly concerned with the many problems of coastal zone management. On an operational level, virtually all of the natural resource-managing bureaus and offices of the Department of the Interior are actively engaged in program activities in the estuarine and coastal zone.

We recognize the great importance of the Nation's estuarine and coastal zone. We are aware of the critical need for a soundly based national program to encourage and assist the coastal states of the Nation in the effective management of the land, water and other resources in these areas. Thus, we concur in the basic objective of S. 2802 to establish a program for coastal zone management. We believe, however, that the overall program described in S. 3183 will be more effective, sounder, and comprehensive than that proposed in S. 2802.

S. 3183, as proposed by this Department would establish a national policy for the effective management and protection of the coastal zone. To accomplish this policy, the bill will add a new section 19 to the Federal Water Pollution Control Act, as amended, to provide for a cooperative program between the Federal and coastal state governments. Federal grants would be made to the coastal states on up to a 50 percent matching basis for developing a comprehensive management program for the state's coastal zone. Operational grants could also be made to the coastal state on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal state's performance under its program and provides for the power to terminate or withdraw financial assistance in case of partial compliance or a failure to comply.

Under S. 2802, the coastal zone management program would be administered by the National Council on Marine Resources and Engineering Development, a body established in the Executive Office of the President and comprised of the Vice President of the United States and eight (or nine if the Secretary of the Army were added to the Council as proposed in S. 2802) high-ranking representatives or heads of Departments and agencies of the Government. All council actions would be taken by majority vote of the Council membership with the Vice President authorized to cast an additional vote in cases of a tie.

We seriously question the wisdom of assigning the responsibility for administration of a coastal zone management program to the Council. We believe that the program should be administered by an operating Department; preferably, the Department of the Interior, which is presently engaged in existing programs in the estuarine and coastal zone.

We also believe that the approach taken in S. 3183 to funding the estuarine and coastal zone management program is preferable to the proposal in S. 2802 which would designate a set amount of revenue each year from the Outer Continental Shelf Lands Act for a Marine Resources Fund.

With respect to extending the life of the Marine Council as proposed in S. 2802, the Administration has recently recommended that the life of the Council be extended to June 30, 1971.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

LESLIE L. GLASGOW,
Assistant Secretary of the Interior.

NATIONAL SCIENCE FOUNDATION,
OFFICE OF THE DIRECTOR,
Washington, D.C., April 20, 1970.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for comments on S. 2802, "Coastal Zone Management Act of 1969."

While the National Science Foundation is in general agreement with the purposes of S. 2802, the specific means proposed to carry them out appears to run counter to the coastal zone management plan recently proposed by the Administration.

On October 19, 1969, the Chairman of the National Council on Marine Resources and Engineering Development, Vice President Agnew, announced a five-point program to strengthen the country's marine science activities. The first part of this program, entitled Coastal Zone Management, would establish a new Federal policy to promote improved management of coastal areas and the Great Lakes by means of grants to help states plan and manage their coastal activities through state management authorities. Legislation to authorize such grants, with matching state contributions, was recently introduced in the Congress (H.R. 14845; S. 3183), and the Department of Interior has been assigned lead agency responsibility. Inasmuch as legislation to cover the Administration's program has now been introduced, we believe that it would be preferable for the Congress to take affirmative action on H.R. 14845 or S. 3183, rather than to proceed with S. 2802.

The Bureau of the Budget has advised us that there is no objection to the submission of this report from the viewpoint of the Administration's program.

Sincerely yours,

W. D. McELROY, *Director.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., April 21, 1970.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate.*

DEAR MR. CHAIRMAN: This is in reference to your letter of April 10, 1970, requesting our views on S. 3183, entitled: "A BILL To amend

the Federal Water Pollution Control Act to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone."

We have no special information as to the advantage or disadvantages of the proposed legislation and, therefore, make no comments as to its merit. However, we have the following suggestions concerning specific provisions of the bill.

At page 3, lines 7-10, the term "coastal State," is defined as including Puerto Rico and the Virgin Islands. We assume it is not intended to include the Trust Territory of Pacific Islands.

At page 8, line 21, regarding Federal approval of coastal State management plans, including State provision for conducting relevant research incident to such plans, the committee may wish to specify whether the research is to be basic, or applied research, or both. Also, regarding such State research supported by Federal funds and carried out in accordance with the grant program, the committee may wish to include provision for free Federal and State access to, and use of, items patented by the coastal States as the result of the development of new processes and techniques in the general area of water protection and pollution control.

At page 9, line 6, we suggest the following change:

(B) No grant funds shall be used for the acquisition of real property, *or any interest therein.*

Also, page 13, line 12, apparently is erroneous and should be corrected to provide as follows:

(3) The Secretary, *or the head of any other Federal agency concerned,* * * *

Sincerely yours,

ROBERT F. KELLER,
Assistant Comptroller General of the United States.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 23, 1970.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Your Committee has requested the comments of this Department on S. 3460, a bill "To establish a national policy for the coastal zone resource, to encourage a systematic approach to coastal zone planning and development, and to assist the States in establishing coastal zone management programs".

Recently, the Department transmitted to the President of the Senate and the Speaker of the House a proposed bill "To provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone." The proposed bill was transmitted with, and would implement, the report of the National Estuarine Pollution Study. We recom-

mend the enactment of our proposed bill, which is pending in the Senate as S. 3183, in lieu of S. 3460.

S. 3460 would extend the expiration date of the National Council on Marine Resources and Engineering Development from June 30, 1970 to June 30, 1975 and authorize the Council to provide financial assistance to the States in establishing coastal zone management programs. Such assistance would include grants covering up to 50 percent of the costs of formulating and implementing long-range master plans for the balance development of the natural, commercial, industrial, recreational, and esthetic resources of the defined coastal zone area (generally land, bays, estuaries, and waters within three miles of the United States Coast). It would also include a guaranty of bond issues or loans for land acquisitions, land and water development, and restoration projects.

A special Marine Resources Fund would receive \$125 million annually, to be derived from revenues obtained under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 *et seq.*) to finance such grants and guaranties. All Federal agencies conducting or supporting research or other activities in a coastal zone would be required to make their activities consistent with any applicable State or interstate coastal planning and development program. In addition, Federal agencies would be prohibited from undertaking any development project in a coastal zone which the responsible State or interstate agency deemed to be inconsistent with such planning and development program unless the Council found such project, on balance, to be consistent with the general objectives of the bill. Conversely, the Council would reject a Federal development project that has been approved by the appropriate state agency.

S. 3460 is similar to S. 2802, also pending before your Committee. The bills differ in that S. 3460 would authorize the establishment, by the Chairman of the Council, of coastal zone management advisory committees, that would consult with the Council on matters of policy. It would also make available to coastal authorities grants up to 50 percent of the costs of acquisition, development, and operation of estuarine sanctuaries, defined by section 304(h) to be an area not to exceed ten square miles suitable for use as a natural field laboratory. Other differences include an appropriation authorization of \$125 million in S. 3460 as opposed to \$75 million in S. 2802, and effective dates for those appropriations of June 30, 1969 and June 30, 1970, respectively.

This Department participated actively in the efforts of the Marine Commission and the Marine Council which were directly concerned with the many problems of coastal zone management. On an operational level, virtually all of the natural resource-managing bureaus and offices of the Department of the Interior are actively engaged in program activities in the estuarine and coastal zone, including the Great Lakes.

We recognize the great importance of the Nation's estuarine and coastal zone. We are aware of the critical need for a soundly based national program to encourage and assist the coastal states of the Nation in the effective management of the land, water and other resources in these areas. Thus, we concur in the basic objectives of S. 3460 to establish a program for coastal zone management. We believe,

however, that the overall program described in S. 3183 will be more effective, sounder, and comprehensive than that proposed in S. 3460.

S. 3183, as proposed by this Department would establish a national policy for the effective management and protection of the coastal zone. To accomplish this policy, the bill will add a new section 19 to the Federal Water Pollution Control Act, as amended, to provide for a cooperative program between the Federal and coastal state governments. Federal grants would be made to the coastal states on up to a 50 percent matching basis for developing a comprehensive management program for the state's coastal zone. Operational grants could also be made to the coastal state on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal state's performance under its program and provides for the power to terminate or withdraw financial assistance in case of partial or noncompliance.

Under S. 3460, the coastal zone management program would be administered by the National Council on Marine Resources and Engineering Development, a body established in the Executive Office of the President and comprised of the Vice President of the United States and eight (or nine if the Secretary of the Army were added to the Council as proposed in S. 3460) high-ranking representatives or heads of Departments and agencies of the Government. All council actions would be taken by majority vote of the Council membership with the Vice President authorized to cast an additional vote in cases of a tie.

We seriously question the wisdom of assigning the responsibility for administration of a coastal zone management program to the Council. We believe that the program should be administered by an operating Department; preferably, the Department of the Interior, which is presently engaged in existing programs in the estuarine and coastal zone.

We also believe that the approach taken in S. 3183 to funding the estuarine and coastal zone management program is preferable to the proposal in S. 3460 which would designate a set amount of revenue each year from the Outer Continental Shelf Lands Act for a Marine Resources Fund.

With respect to extending the life of the Marine Council as proposed in S. 3460, the Administration has recently recommended that the life of the Council be extended to June 30, 1971.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

HOLLIS M. DOLE,
Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 1, 1970.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Your Committee has requested the comments of this Department on S. 3183, a bill "To amend the Federal Water Pollution Control Act to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone."

A draft of S. 3183 was transmitted to the Congress with our report of the National Estuarine Pollution Study. S. 3183 is consistent with the findings of that study and would establish a national policy for the effective management and protection of the estuarine and coastal zone. We strongly urge the enactment of S. 3183 as a first step toward reform of land and water use in the areas of our country where convergence of population and technology are causing pollution and destruction of our coastal resources.

S. 3183, the proposed National Estuarine and Coastal Zone Management Act of 1970, would add a new Section 19 to the Federal Water Pollution Control Act, as amended, to provide for a cooperative program between the Federal and coastal State governments. Federal grants would be made to the coastal states on up to a 50 percent matching basis for developing a comprehensive management program for the state's coastal zone. Operational grants could also be made to the coastal state on a matching basis for implementation of the program. A requirement for the awarding of grants under S. 3183 would be that the State be organized to implement the management plan and that all necessary regulatory authorities are vested in the implementing agency or agencies. This new section would provide for a continuing review by the Secretary of the coastal state's performance under its program and provides for the power to terminate or withdraw financial assistance in case of partial compliance or a failure to comply. A summary of the specific provisions is attached.

S. 2802 and S. 3460 which are also pending before your Committee have similar objectives with respect to the estuarine and coastal zone, and the Department generally supports the objectives of those bills. However, there are significant differences between the provisions of S. 2802 and S. 3460 with respect to such provisions as: Federal agency responsibility for administration of the proposed grant program; method of financing the program; requirements with respect to responsibility and organization within the States for implementing the estuarine and coastal zone management program; interagency coordination at the Federal level; and definition of the estuarine and coastal zone. In all cases, we believe the provisions of the Administration's bill are superior to those of the other bills being considered. In particular, we believe that a grant program such as the one proposed should be administered by an operating agency rather than an executive office organization. The proposed program is closely related to many activities of the Department of the Interior and, we believe the

Department is in the best position to administer the program and achieve the necessary interagency coordination at the Federal level.

The Department of the Interior is broadly concerned with the whole area of natural resources and their most effective management. Nowhere is the need for effective management more noticeable than in the estuarine and coastal zone. To meet the critical need for a soundly based national program to encourage and assist the coastal States in the effective management of the land, water and other resources of the estuarine and coastal zone, we urge enactment of S. 3183.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

LESLIE L. GLASGOW,
Assistant Secretary of the Interior.

Enclosure.

SUMMARY OF S. 3183, "THE NATIONAL ESTUARINE AND COASTAL ZONE MANAGEMENT ACT OF 1970"

The overall objective of the bill is to establish a national policy to encourage and assist the coastal States to exercise effectively their responsibilities over the Nation's estuarine and coastal zones through development and implementation of comprehensive management programs. "Coastal States" as defined in the bill, means any State of the United States bordering on the Atlantic, Pacific, or gulf coast or the Great Lakes, and includes Puerto Rico, and the Virgin Islands. An "estuary" is defined as all or part of the mouth of a river or stream or other body of water having unimpaired natural connection with open sea and within which the sea water is measurably diluted with fresh water derived from land drainage. "Coastal Zone" is defined as the land, waters, and lands beneath the waters in close proximity to the coastline (including the Great Lakes) and strongly influenced by each other. For the purposes of identifying the objects of planning, management and regulatory programs dealt with in the bill, the coastal zone is considered to extend seaward to the outer limits of the territorial sea of the United States. The coastal zone includes areas influenced or affected by water from an estuary such as, but not limited to, salt marshes, coastal and intertidal areas, sounds, embayments, harbors, lagoons, inshore waters, and channels.

The operative sections of the bill are cast as a new section 19 of the Federal Water Pollution Control Act, as amended.

Section 19(b) reflects a Congressional finding that there is a national interest in the effective management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone. In support of the finding, it notes the increasing number of conflicting demands on the finite resources of the coastal zone resulting from pressures of population growth and economic development; the value of estuaries, marshlands, and other parts of the coastal zone as habitat and life support areas for fish and wildlife and the susceptibility of such areas to destruction and disruption by man; the threat of increased harm to the coastal zone and loss of its

benefits resulting from continued unplanned or uncoordinated development activities; the value of the coastal zone for multiple economic, recreational, and resource uses; and the interest which the citizens of all States have in the coastal zone.

Section 19(c) authorizes the Secretary of the Interior to make program development grants to the coastal States to assist in developing comprehensive management programs for their coastal zones. Grants are limited to 50 percent of the State's cost of developing the program (to a maximum limit of \$200,000 per year for each coastal State). Other Federal funds cannot be used to match such grants. The initial and subsequent grants are, respectively, conditioned on a demonstration that the funds will be used to develop a comprehensive management program consistent with the requirement of subsection (d) (3) of the bill and a finding that the coastal State is adequately and expeditiously developing such a program. Upon completion of the development of the program the coastal State shall submit it to the Secretary for review.

Operating grants up to 50 percent of costs of administering the program (to a maximum limit of \$200,000 per year for each coastal State) are authorized by section 19(d) (1) if the State's program is approved by the Secretary. Operating grants will be allotted to the States on the basis of regulations developed by the Secretary which will take into account the amount and nature of the coastline and area covered by the management plan, population, and other relevant factors. No grant funds shall be used for the acquisition of real property.

Before approving a State's comprehensive management program, the Secretary must find that the Governor has designated a single agency to receive and administer grants for implementing its management plan; that the management plan has been reviewed and approved by the Governor; that the coastal State is organized to implement the management plan; that the agency or agencies responsible for implementing the management plan have the necessary regulatory authority; that the coastal State has developed and adopted a coastal zone management plan and that it has provided for adequate public notice and hearings in the development of its management plan.

Each coastal State's management plan must: identify the area covered by the management plan; identify and recognize the national, State, and local interest in the preservation, use, and development of the coastal zone; contain a feasible land and water use plan which reasonably reflects short-term and long-term public and private requirements for use of the coastal zone; describe the coastal State's current and planned programs for the management of its coastal zone; identify and describe the means for coordinating the plan with Federal, State, and local plans for use, conservation, and management of the coastal zone, including State, interstate, and regional comprehensive planning; reflect the State's procedures for reviews of State, local, and private projects in the coastal zone for consistency with the plan and for advising whether Federal and federally assisted projects are consistent with the plan; describe the State's procedures for modification and change of the management plan; indicate that the plan was developed in cooperation with relevant Federal agencies, State agencies, local governments, and all other interests; describe the pro-

cedures for regular review and updating of the plan; contain adequate provisions for disseminating information concerning the plan and subsequent modifications or changes; and provide for conducting, fostering, or utilizing relevant research.

The Governor of a coastal State may, with the Secretary's approval, allocate portions of a program development grant or operating grant to an interstate agency if such agency has authority to perform the functions required of a coastal State under the bill.

Section 19(e) requires the Secretary to continually review the management program and performance of the coastal States and authorizes him to terminate and withdraw financial assistance after notice and opportunity to present evidence have been given a coastal State where such coastal State unjustifiably fails to adhere to the program approved by the Secretary.

Section 19(f) authorizes the Secretary to establish advisory committees in the Department of the Interior to consult with and make recommendations to him on matters of policy concerning the coastal zone. The Secretary is authorized to compensate such members who are not full time Federal employees.

Section 19(g) requires the Secretary, before approving a State's management plan, to solicit the views of the Federal agencies principally affected by the plan or to be satisfied that such views were provided the State in the development of the plan. It directs all Federal agencies conducting or supporting activities in coastal areas to make such activities consistent with the approved plan for the area, and requires such agencies to refrain from approving proposed projects that are inconsistent with the plan without making investigation and finding that the proposals, on balance, are sound.

Section 19(h) establishes that the bill is not intended: to diminish Federal or State jurisdiction, responsibility, or rights in water resource planning, development, or control or to affect any interstate compact or joint agency or two or more States, or two or more States and the Federal Government, or the authority of the Congress to authorize and fund projects; to affect the authority of any federal official except as may be required to carry out the provisions of the bill; to affect existing law applicable to Federal agencies except as may be required to carry out the provisions of the bill; or to affect the authority of certain named international bodies.

The Secretary is authorized by section 19(i), after consultation with other interested parties, to promulgate rules for submission and review of the grants authorized by the bill and to require reports concerning the status and application of Federal funds and the operation of the approved management program. Access to books and records of grant recipients by the Secretary, heads of other Federal agencies, and the Comptroller General is provided by section 19(i) (3).

The bill authorizes the appropriation of \$2,000,000 for fiscal year 1971 and such sums as may be necessary for the fiscal years thereafter June 30, 1975, for program development grants; such sums as may be necessary for the fiscal year ending June 30, 1972, and for each succeeding fiscal year thereafter for operating grants; and such funds as may be necessary for the Secretary to carry out the provisions of the bill.

FEDERAL MARITIME COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C. May 13, 1970.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Federal Maritime Commission with respect to S. 3183, a bill

To amend the Federal Water Pollution Control Act to provide for the establishment of a national policy and comprehensive national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's estuarine and coastal zone.

S. 3183 would establish a national policy which declares a national interest in the effective management, beneficial use, protection and development of the land and water resources of the Nation's estuarine and coastal zones.

The bill is based on a three year comprehensive study of the effects of pollution in estuaries and estuarine zones of the United States on fish and wildlife, on fishing, recreation, water supply, water power, by the Department of the Interior as required by section 5(g) of the Federal Water Pollution Control Act¹. It encourages the development by coastal States, of comprehensive management programs for the land and water resources of the coastal zones by authorizing grants of Federal funds up to 50% of the costs of the programs. The use of other Federal funds to match the grants provided by S. 3183, is prohibited, and various safeguards are established to permit the Secretary of the Interior to assure, as a condition to the continuation of grants, that the States are adhering to the programs as approved by the Secretary.

Although the Federal Maritime Commission has no statutory functions or responsibilities which would be affected by the provisions of S. 3183, we are deeply concerned with the mounting environmental problems daily menacing the peoples of this nation. The programs contemplated in this bill appear designed to provide effective measures to combat some of these problems in the estuarine and coastal zones of the United States.

The Commission favors its enactment.

The Bureau of the Budget has advised that there would be no objection to the submission of this letter from the standpoint of the Administration's program.

Sincerely,

HELEN DELICH BENTLEY,
Chairman.

¹ 33 U.S.C. 466(c)(g).

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., June 25, 1970.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department concerning S. 2802, a bill

To assist the States in establishing coastal zone management programs,

to be cited as the "Coastal Zone Management Act of 1969."

S. 2802 would amend the Marine Resources and Engineering Act of 1966, as amended (33 U.S.C. 1101 *et seq.*) by adding two new titles for the purpose of assisting the States to establish coastal zone management programs. In carrying out the provisions of this bill, the National Council on Marine Resources and Engineering Development established by the 1966 Act would review any planning and development program submitted by a coastal authority and would make grants to such authorities in order to assist them in developing a long-range master plan for the coastal zone and implementing a development program based upon such master plan.

This Department is in accord with the objectives of S. 2802, but we do not recommend that it be enacted.

On November 13, 1969, the Secretary of the Interior submitted to the Congress the Administration's draft legislation cited as the "National Estuarine and Coastal Zone Management Act of 1970," which has been introduced as S. 3183. S. 3183 would amend the Federal Water Pollution Control Act, as amended (33 U.S.C. 466 *et seq.*) by adding a new section to establish a national policy and program for the effective management and protection of the coastal zone.

This Department favors the program of coastal zone protection provided for in S. 3183. Accordingly, we recommend enactment of S. 3183 in lieu of S. 2802.

We have been advised by the Bureau of the Budget that there would be no objection to submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

JAMES T. LYNN, *General Counsel.*

TEXT OF S. 3507 AS REPORTED

A BILL To establish a national policy and develop a national program for the management, beneficial use, protection, and development of the land and water resources of the Nation's coastal zones, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to provide for a comprehensive, long-range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering, and Resources, and for other purposes", approved June 17, 1966 (80 Stat. 203), as amended (33 U.S.C. 1101-1124), is further amended by adding at the end thereof the following new title:

"TITLE III—MANAGEMENT OF THE COASTAL ZONE

"SHORT TITLE

"SEC. 301. This title may be cited as the 'National Coastal Zone Management Act of 1972'.

"CONGRESSIONAL—FINDINGS

"SEC. 302. The Congress finds that—

"(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone;

"(b) The coastal zone is rich in a variety of natural, commercial, recreational, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation;

"(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion;

"(d) The coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations;

"(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost;

"(f) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values;

"(g) In light of competing demands and the urgent need to protect and to give high priority to natural systems in our coastal zone, present coastal State and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate; and

"(h) The key to more effective use of the land and water resources of the coastal zone is to encourage the coastal States to exercise their full authority over the lands and waters in the coastal zone by assist-

ing the coastal States, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.

"DECLARATION OF POLICY

"SEC. 303. The Congress finds and declares that it is the national policy:

"(a) To preserve, protect, develop, and where possible to restore, the resources of the Nation's coastal zone for this and succeeding generations; (b) To encourage and assist the States to exercise effectively their responsibilities in the coastal zone through the preparation and implementation of management programs to achieve wise use of the land and water resources of the coastal zone giving full consideration to ecological, cultural, historic, and esthetic values as well as to needs for economic development. (c) For all Federal agencies engaged in programs affecting the coastal zone to cooperate and participate with State and local governments and regional agencies in effectuating the purposes of this Act. And, (d) To encourage the participation of the public, of Federal, coastal State, and local governments and of regional agencies in the development of coastal zone management programs. With respect to implementation of such management programs, it is the national policy to encourage cooperation among the various coastal State and regional agencies including establishment of interstate and regional agreements, cooperative procedures, and joint action, particularly regarding environmental problems.

"DEFINITIONS

"SEC. 304. For the purposes of this title—

"(a) 'Coastal zone' means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal States, and includes transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone terminates, in Great Lakes waters, at the international boundary between the United States and Canada and, in other areas, extends seaward to the outer limit of the United States territorial sea. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

"(b) 'Coastal waters' means (1) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes and (2) in other areas, those waters, adjacent to the shorelines, which contain a measurable tidal influence, including, but not limited to, sounds, bays, lagoons, baysous, pounds, and estuaries.

"(c) 'Coastal State' means a State of the United States in or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes. For the purposes of this title, the term includes Puerto Rico, the Virgin Islands, Guam, and American Samoa.

"(d) 'Estuary' means that part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage. The term includes estuary-type areas of the Great Lakes.

"(e) 'Estuarine sanctuary' means a research area which may include any part or all of an estuary, adjoining transitional areas, and adjacent uplands, constituting to the extent feasible a natural unit, set aside to provide scientists and students the opportunity to examine over a period of time the ecological relationships within the area.

"(f) 'Secretary' means the Secretary of Commerce.

"(g) 'Management program' means a comprehensive statement in words, maps, illustrations, or other media of communication, prepared and adopted by the coastal State in accordance with the provisions of this title, setting forth objectives, policies, and standards to guide public and private uses of lands and waters in the coastal zone so as to minimize direct, significant, and adverse impact on the coastal waters, and governmental structure capable of implementing such program.

"MANAGEMENT PROGRAM DEVELOPMENT GRANTS

"SEC. 305. (a) The Secretary is authorized to make annual grants to any coastal State for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone.

"(b) Such management program shall include:

"(1) an identification of the boundaries of the coastal zone of the portions of the coastal State subject to the management program;

"(2) a definition of what shall constitute permissible land and water uses within the coastal zone so as to prevent such uses which have a direct, significant, and adverse impact on the coastal waters;

"(3) an inventory and designation of areas of particular concern within the coastal zone;

"(4) an identification of the means by which the coastal State proposes to exert control over land and water uses, within the coastal zone so as to prevent such uses which have a direct, significant, and adverse impact on the coastal waters: including a listing of relevant constitutional provisions, legislative enactments, regulations, and judicial decisions;

"(5) broad guidelines on priority of uses in particular areas, including specifically those uses of lowest priority;

"(6) a description of the organizational structure proposed to implement the management program, including the responsibilities and interrelationships of areawide, coastal State, and regional agencies in the management process.

"(c) The grants shall not exceed 66 $\frac{2}{3}$ per centum of the costs of the program in any one year and no State shall be eligible to receive more

than three annual grants pursuant to this section. Federal funds received from other sources shall not be used to match such grants. In order to qualify for grants under this section, the coastal State must reasonably demonstrate to the satisfaction of the Secretary that such grants will be used to develop a management program consistent with the requirements set forth in section 306 of this title. After making the initial annual grant to a coastal State, no subsequent grant shall be made under this section unless the Secretary finds that the coastal State is satisfactorily developing such management program.

“(d) Upon completion of the development of the State’s management program, the coastal State shall submit such program to the Secretary for review, approval pursuant to the provisions of section 306 of this title, or such other action as he deems necessary. On final approval of such planned program by the Secretary, the coastal State’s eligibility for further grants under this section shall terminate, and the coastal State shall be eligible for grants under section 306 of this title.

“(e) Grants under this section shall be allotted to the coastal States based on rules and regulations promulgated by the Secretary: *Provided, however,* That no management program development grant under this section shall be made in excess of 10 per centum nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

“(f) Grants or portions thereof not obligated by a coastal State during the fiscal year for which they were first authorized to be obligated by the coastal State, or during the fiscal year immediately following, shall revert to the Secretary, and shall be added by him to the funds available for grants under this section.

“(g) With the approval of the Secretary the coastal State may allocate to a local government, to an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 or to an interstate agency a portion of the grant under this section for the purpose of carrying out the provisions of this section.

“(h) The authority to make grants under this section shall expire five years from the date of enactment of this title.

“ADMINISTRATIVE GRANTS

“SEC. 306. (a) The Secretary is authorized to make annual grants to any coastal State for not more than 66⅔ per centum of the costs of administering the coastal State’s management program, if he approves such program in accordance with subsection (c) hereof. Federal funds received from other sources shall not be used to pay the coastal State’s share of costs.

“(b) Such grants shall be allotted to the coastal States with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided, however,* That no annual administrative grant under this section shall be made in excess of 10 per centum, nor less than 1 per centum of the total amount appropriated to carry out the purposes of this section.

"(c) Prior to granting approval of a management program submitted by a coastal State, the Secretary shall find:

"(1) The coastal State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, which shall be in accordance with the objectives of this Act, after notice, and with the opportunity of full participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities, and other interested parties, public and private, which is adequate to carry out the purposes of this title.

"(2) The coastal State has:

"(A) coordinated with local, areawide, and interstate plans applicable to areas within the coastal zone existing on January 1 of the year in which the coastal State's management program is submitted to the Secretary, which plans have been developed by a local government, an interstate agency, or an areawide agency designated pursuant to regulations established under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966; and

"(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (5) of this subsection and with local governments, interstate agencies, and areawide agencies within the coastal zone to assure the full participation of such local governments and agencies in carrying out the purposes of this title."

"(3) The coastal State has held public hearings in the development of the management program.

"(4) The management program and any changes thereto have been reviewed and approved by the Governor.

"(5) The Governor of the coastal State has designated a single agency to receive and administer the grants for implementing the management program required under paragraph (1) of this subsection.

"(6) The coastal State is organized to implement the management program required under paragraph (1) of this subsection.

"(7) The coastal State has the authorities necessary to implement the program, including the authority required under subsection (d) of this section.

"(d) Prior to granting approval of the management program, the Secretary shall find that the coastal State, acting through its chosen agency or agencies (including local governments, interstate agencies, or areawide agencies designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966), has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

"(1) to administer land and water use regulations, control development in order to ensure compliance with the management program, and to resolve conflicts among competing uses; and

"(2) to acquire fee simple and less than fee simple interests in lands, waters, and other property through condemnation of other

means when necessary to achieve conformance with the management program.

“(e) Prior to granting approval, the Secretary shall also find that the program provides:

“(1) for any one or a combination of the following general techniques for control of land and water uses within the coastal zone:

“(A) Coastal State establishment of criteria and standards for local implementation, subject to administrative review and enforcement of compliance;

“(B) Direct coastal State land and water use planning and regulations; or

“(C) Coastal State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any coastal State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

“(2) for a method of assuring that local land and water use regulations within the coastal zone do not unreasonably restrict or exclude land and water uses of regional benefit.

“(f) With the approval of the Secretary, a coastal State may allocate to a local government, to an interstate agency, or an areawide agency designated under section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 a portion of the grant under this section for the purpose of carrying out the provisions of this section: *Provided*, That such allocation shall not relieve the coastal State of the responsibility for ensuring that any funds so allocated are applied in furtherance of such coastal State's approved management program.

“(g) The coastal State shall be authorized to amend the management program. The modification shall be in accordance with the procedures required under subsection (c) of this section. Any amendment or modification of the program must be approved by the Secretary before additional administrative grants are made to the coastal State under the program as amended.

“(h) At the discretion of the coastal State and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: *Provided*, That the coastal State adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

“PUBLIC HEARINGS

“Sec. 307. All public hearings by nonfederal entities required under this title must be announced at least thirty days before they take place, and all relevant materials, documents, and studies must be made readily available to the public for study at least thirty days in advance of the actual hearing or hearings.

"RULES AND REGULATIONS

"SEC. 308. The Secretary shall develop and promulgate, pursuant to section 553 of title 5, United States Code, after notice and opportunity for full participation by relevant Federal agencies, coastal State agencies, local governments, regional organizations, port authorities, and other interested parties, both public and private, such rules and regulations as may be necessary to carry out the provisions of this title.

"REVIEW PERFORMANCE

"SEC. 309. (a) The Secretary shall conduct a continuing review of the management programs of the coastal States and of the performance of each coastal State.

"(b) The Secretary shall have the authority to terminate any financial assistance extended under section 306 and to withdraw any unexpended portion of such assistance if (1) he determines that the coastal State is failing to adhere to and is not justified in deviating from the program approved by the Secretary, and (2) the coastal State has been given notice of proposed termination and withdrawal and given an opportunity to present evidence of adherence or justification for altering its program.

"RECORDS

"SEC. 310. (a) Each recipient of a grant under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant, the total cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted are used in accordance with this title.

"NATIONAL COASTAL RESOURCES BOARD

"SEC. 311. (a) There is hereby established, in the Executive Office of the President, the National Coastal Resources Board (hereinafter called the 'Board') which shall be composed of—

- "(1) The Vice President, who shall be Chairman of the Board.
- "(2) The Secretary of State.
- "(3) The Secretary of the Navy.
- "(4) The Secretary of the Interior.
- "(5) The Secretary of Commerce.
- "(6) The Chairman of the Atomic Energy Commission.
- "(7) The Director of the National Science Foundation.
- "(8) The Secretary of Health, Education, and Welfare.
- "(9) The Secretary of Transportation.

"Executive Appointments

"(b) The President may name to the Board such other officers and officials as he deems advisable.

“Alternate Presiding Officer Over Board Meetings

“(c) The President shall from time to time designate one of the members of the Board to preside over meetings of the Board during the absence, disability, or unavailability of the Chairman.

“Alternates for Service on the Board

“(d) Each member of the Board, except those designated pursuant to subsection (b) of this section, may designate any officer of his department or agency appointed with the advice and consent of the Senate to serve on the Board as his alternate in his unavoidable absence.

“Personnel; Civilian Executive Secretary

“(e) The Board may employ a staff to be headed by a civilian executive secretary who shall be appointed by the President and shall receive compensation at a rate established by the President at not to exceed that of level II of the Federal Executive Salary Schedule. The executive secretary, subject to the direction of the Board, is authorized to appoint and fix the compensation of such personnel, including not more than seven persons who may be appointed without regard to civil service laws or chapter 51 and subchapter III of chapter 53 of title 5 and compensated at not to exceed the highest rate of grade 18 of the General Schedule as may be necessary to perform such duties as may be prescribed by the President.

“(f) The Board shall meet regularly at such times as the Chairman may direct and shall have the following duties:

“(1) to provide for the effective coordination between programs of the Federal agencies within the coastal zone;

“(2) in the case of serious disagreement between any Federal agency and a coastal State in the development of the program, the Board shall seek to mediate the differences; and

“(3) to provide a forum for appeals by an aggrieved areawide planning entity or unit of local government from any decision or action of the Secretary or areawide planning entity.

“ADVISORY COMMITTEE

“SEC. 312. (a) The Secretary is authorized to establish a Coastal Zone Management Advisory Committee (hereafter referred to ‘the Committee’) to advise, consult with, and make recommendations to the Secretary on matters of policy concerning the coastal zone. Such committee shall be composed of not more than fifteen persons designated by the Secretary and shall perform such functions and operate in such a manner as the Secretary may direct.

“(b) Members of the committee who are not regular full-time employees of the United States, while serving on the business of the committee, including traveltime, may receive compensation at rates not exceeding \$100 per diem; and while so serving away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

“ESTUARINE SANCTUARIES

“SEC. 313.(a) The Secretary, in accordance with rules and regulations promulgated by him, is authorized to make available to a coastal State grants up to 50 per centum of the costs of acquisition, development, and operation of estuarine sanctuaries for the purpose of creating natural field laboratories to gather data and make studies of the natural and human processes occurring within and directly affecting the estuaries of the coastal zone. The Federal share of the cost for each such sanctuary shall not exceed \$2,000,000. No Federal funds received pursuant to section 306 shall be used for the purpose of this section.

“INTERAGENCY COORDINATION AND COOPERATION

“SEC. 314. (a) The Secretary shall not approve the management program submitted by a coastal State pursuant to section 306 unless the views of Federal agencies principally affected by such program have been adequately considered. In case of serious disagreement between any Federal agency and a coastal State in the development of the program the Secretary, in cooperation with the National Coastal Resources Board, shall seek to mediate the differences.

“(b) (1) All Federal agencies conducting or supporting activities in the coastal zone shall administer their programs consistent with approved coastal State management programs except in cases of overriding national interest as determined by the President. Procedures provided for in regulations issued pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968 shall be applied in determining whether Federal projects and activities are consistent with approved management programs.

“(2) Federal agencies shall not undertake any development project in the coastal zone of a coastal State which, in the opinion of the coastal State, is inconsistent with the management program of the coastal State unless the Secretary, after receiving detailed comments from both the Federal agency and the coastal State and affected local governments, finds that such project is consistent with the objectives of this title, or is informed by the Secretary of Defense and finds that the project is necessary in the interest of national security.

“(3) After the final approval by the Secretary of a coastal State's management program, any applicant for a Federal license or permit to conduct any activity in the coastal and estuarine zone subject to such license or permit, shall provide in the application to the licensing or permitting agency a certification from the appropriate State agency that the proposed activity complies with the State's approved management program, and that there is reasonable assurance, as determined by the State, that such activity will be conducted in a manner consistent with the State's approved management program. The State shall establish procedures for public notice in the case of all applications for certification by it, and to the extent it deems appropriate, procedures for public hearings in connection with specific applications. If the State agency fails or refuses to act on a request for certification within six months after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal appli-

cation. No license or permit shall be granted until the certification required by this section has been obtained or has been waived as provided in the preceding sentence, unless, after receipt of detailed comments from the relevant Federal and State agencies, and the provision of an opportunity for a public hearing, the activity is found by the Secretary to be consistent with the objectives of this title or necessary in the interest of national security. Upon receipt of such application and certification, the licensing or permitting agency shall immediately notify the Secretary of such application and certification.

“(c) Coastal State and local governments submitting applications for Federal assistance under other Federal programs affecting the coastal zone shall indicate the views of the appropriate coastal State or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of title IV of the Intergovernmental Coordination Act of 1968 (82 Stat. 1098). Federal agencies shall not approve proposed projects that are inconsistent with a coastal State’s management program, except upon a finding by the Secretary that such project is consistent with the purposes of this title or necessary in the interest of national security.

“(d) Nothing in this section shall be construed—

“(1) to diminish either Federal or State jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources and navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; not to limit the authority of Congress to authorize and fund projects;

“(2) to change or otherwise affect the authority or responsibility of any Federal official in the discharge of the duties of his office except as required to carry out the provisions of this title;

“(3) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies, except as required to carry out the provisions of this title; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States Operating Entity or Entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

“ANNUAL REPORT

“SEC. 315. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress not later than November 1 of each year a report on the administration of this title for the preceding fiscal year. The report shall include but not be restricted to (1) an identification of the coastal State programs approved pursuant to this title during the preceding Federal fiscal year and a description of those programs; (2) a listing of the coastal States participating in the provisions of this title and a description of the status of each

coastal State's programs and its accomplishments during the preceding Federal fiscal year; (3) an itemization of the allotment of funds to the various coastal States and a breakdown of the major projects and areas on which these funds were expended; (4) an identification of any coastal State programs which have been reviewed and disapproved or with respect to which grants have been terminated under this title, and a statement of the reasons for such action; (5) a listing of the Federal development projects which the Secretary has reviewed under section 314 of this title and a summary of the final action taken by the Secretary with respect to each such project; (6) a summary of the regulations issued by the Secretary or in effect during the preceding Federal fiscal year; (7) a summary of outstanding problems arising in the administration of this title in order of priority; and (8) such other information as may be appropriate.

"(b) The report required by subsection (a) shall contain such recommendations for additional legislation as the Secretary deems necessary to achieve the objectives of this title and enhance its effective operation.

"AUTHORIZATION OF APPROPRIATION

"SEC. 316. (a) There is authorized to be appropriated—

"(1) the sum of \$12,000,000 for the fiscal year ending June 30, 1973, and such sums as may be necessary for the fiscal years 1974 through 1977 for grants under section 305, to remain available until expended;

"(2) such sums, not to exceed \$50,000,000, as may be necessary for the fiscal year ending June 30, 1973, and such sums as may be necessary for each succeeding fiscal year thereafter for grants under section 306 to remain available until expended; and

"(3) such sums, not to exceed \$6,000,000 for the fiscal year ending June 30, 1973, as may be necessary for grants under section 313.

"(b) There are also authorized to be appropriated to the Secretary such sums, not to exceed \$1,500,000 annually, as may be necessary for administrative expenses incident to the administration of this title."

INDIVIDUAL VIEWS OF MR. COTTON

I do not intend to oppose the bill, S. 3507, which proposes to establish a national policy and develop a national program for the management and development of the Nation's coastal zones. It is fundamentally a good bill and I intend to vote for it. Nevertheless, I feel compelled to file these individual views on the following three points:

(1) The interrelationship between this bill and the Administration's national land use bill, S. 992, now pending before the Senate Committee on Interior and Insular Affairs;

(2) Section 311 of S. 3507 establishing a Cabinet-level National Coastal Resources Board; and

(3) The cost of the bill, especially the single year appropriation authorization of \$6 million for funding estuarine sanctuaries provided for in section 313.

1. INTERRELATIONSHIP OF NATIONAL LAND USE BILL

S. 3507 is the successor to the bill, S. 582, which was reported by the Senate Committee on Commerce on December 1, 1971. On March 14, 1972, S. 582 was recommitted to the same Committee in recognition of the potential jurisdictional conflict with legislation pending before other Committees, most particularly the Senate Committee on Interior and Insular Affairs, before which is pending S. 992, the National Land Use Policy Act of 1972.

S. 3507 as reported by the Committee on Commerce now has been redrafted in an attempt to overcome this potential jurisdictional conflict. Nonetheless, the Senate should be mindful of the fact that there is pending another and more encompassing legislative measure which does relate to the same subject area covered by this bill.

2. NATIONAL COASTAL RESOURCES BOARD

Section 311 of S. 3507 provides for the establishment within the Executive Office of the President of a National Coastal Resources Board comprised of several Cabinet-level officers, to be chaired by the Vice-President of the United States. The proponents for the establishment of this Board will point to the National Council on Marine Resources and Engineering Development established under Public Law 89-454 as a precedent. They also will indicate that this Board would have no power to initiate action but rather would serve in a capacity of mediation (e.g., see section 314(a)) so as "to provide a forum for appeals by an aggrieved area-wide planning entity or unit of local government from any decision or action of the Secretary [of Commerce] or area-wide planning entity." (See section 311(f)(3))

Unfortunately, the National Council on Marine Resources and Marine Development does *not* provide such a precedent. It was established as a coordinating unit for what were then widely disbursed

oceanographic activities. It played no role as an appellate authority. Moreover, it had a fixed termination date. The National Coastal Resources Board has no such fixed termination date.

As a matter of fact, the establishment of a Cabinet-level council under the provisions of the Marine Resources and Engineering Development Act of 1966, was a provision found in the Senate-passed measure, S. 944, but not in that bill as passed by the House of Representatives. The report accompanying S. 944 (i.e., House of Representatives Report No. 1025, 89th Congress, 1st Session at p. 12) noted in part the following:

* * * Upon consideration of all the testimony your Committee concluded that the views of the witnesses from the Executive departments, the Bureau of the Budget and the Office of Science and Technology, *in opposition to the establishment of such a Council, had much merit.* (Emphasis supplied)

Moreover, in adopting the Senate provision for such a Cabinet-level council the statement of the Managers on the Part of the House noted concerning the Conference report accompanying S. 944 (See Report No. 1548, 89th Congress, 2d Session) the following:

"* * * In other words, the Council would be self-liquidating after the Commission, with a life of 18 months, complete its study and submits its report.

It may be recalled that a similar measure received a pocket veto by the late President Kennedy in October 1962 (i.e., S. 901, 87th Congress) as was noted in a memorandum of September 17, 1965 to the Chairman of the Committee on Commerce from Mr. Edward Wenk, Jr., Chief, Science Policy Research Division, of the Library of Congress, concerning that veto, "[t]he substantive objection lay in possible proliferation of councils that would become unmanageable administratively, develop overlapping functions, and place unacceptable demands on the time of Cabinet officers."

It is my personal feeling that the same objections would lie against the National Resources Board proposed to be established pursuant to section 311 of S. 3507. More important, I find the precedent which this provision could establish very disturbing. Certainly, there are a multitude of other Federal grant programs, the recipients of which would desire to have a similar "appellate Cabinet-level board" to furnish a forum for their grievances.

3. ESTUARINE SANCTUARIES

Finally, in the report accompanying S. 582 (Report No. 92-526) the distinguished Senator from Oregon (Mr. Hatfield) filed individual views which are worthy of repeating here with respect to S. 3507; namely the following:

* * * * *

As a member of the Senate Committee on the Interior and Insular Affairs, I remain concerned, however, about the

failure of the Committee to restrict the use to which funds for implementation may be used against their use to acquire land and water areas. *If funds under this legislation are used for such purpose, it would appear to establish a regime for acquisition for lands and waters in the coastal zone which would complete with, if not conflict with, the provisions of the Land and Water Conservation Fund Act.* That Act, administered by the Department of the Interior, is at present the principal source of funding for acquisition of outdoor recreation lands. Similarly, and for the same reason, I believe the authorization of funds for the acquisition of estuarine sanctuaries in this bill is ill-advised.

The latter provision was improved somewhat by an amendment offered by the distinguished ranking minority member of our Committee, the senior Senator from New Hampshire, Mr. Cotton, which limits authorization for appropriations for the program to a single year. However, I find no reason to believe that the program will not ultimately be extended to the full scope envisioned in the bill. Thus, we have in effect authorized a five year program providing up to \$30 million in Federal matching funds for the acquisition of up to fifteen estuarine sanctuaries. Such funds should, in my opinion, be provided under existing programs and authorities rather than by the creation of an entirely new program for this admittedly worthwhile purpose. (Emphasis supplied)

* * * * *

I believe that this is particularly important when considered in light of the provisions of the companion bill to S. 3507, H.R. 14146, now pending before the House Committee on Merchant Marine and Fisheries which has a comparable estuarine sanctuaries provision (i.e., section 312) but which authorizes appropriations for not one, but three fiscal years. Moreover, the House bill provides for the establishment of *marine* sanctuaries, in addition to estuarine sanctuaries. This *marine* sanctuaries provision is comparable to the provision found in the Marine Protection and Research Act, H.R. 9727, now pending in a Committee on Conference between the two Houses.

In connection with *marine* sanctuaries, it is important to bear in mind that section 12 of the Outer Continental Shelf Lands Act (16 U.S.C. 1341) does provide the President with authority in this area. In fact, this authority was used by President Eisenhower in 1960 (Proc. No. 339, March 17, 1960) to create the Key Largo Coral Reef Preserve off the coast of Florida.

Accordingly, I feel very strongly that the limitation to but a one year appropriation authorization for estuarine (*not marine*) sanctuaries, pursuant to the provisions of S. 3507, is most important (i.e., see section 316(a)(3)). It should be preserved—both with respect to the limitation of one year and without extension to authorize *marine* sanctuaries—in any resulting conference between the two Houses on these measures.

NORRIS COTTON.